

# CITY OF MEMPHIS

## COUNCIL REGULAR MEETING

Tuesday, April 20, 2021, 3:30 p.m.

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### SUPPORTING DOCUMENTS

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ITEM #	DESCRIPTION	PAGE #
	<b>PRESENTATIONS</b>	
<b>1</b>	PRESENTATION OF THE FISCAL YEAR 2022 BUDGET BY MAYOR JIM STRICKLAND	<b>n/a</b>
<b>2</b>	RESOLUTION designating April 2021 as Second Chance Month	<b>1</b>
	<b>PLANNING AND DEVELOPMENT</b> <b>Public Hearings &amp; Ordinances</b>	
<b>3</b>	RESOLUTION adopting certain amendments to the Memphis 3.0 Comprehensive Plan.	<b>1</b>
<b>4</b>	RESOLUTION approving a special use permit located at 3695 Austin Peay Hwy., Parcel ID #086021-0003, containing +/-1.2 acres in the Commercial Mixed Use – 1 (CMU-1). Case No. SUP 21-05.	<b>54</b>
<b>5</b>	RESOLUTION approving a special use permit located at 0 Jack Carley Causeway, Parcel ID #024001 00014Z, containing +/- 2.16 acres in the Heavy Industrial (IH) District. .Case No. SUP 21-07	<b>125</b>
<b>6</b>	RESOLUTION approving a planned development located at 969 East McLemore Avenue, containing +/-0.61 acres in the Commercial Planned Development. Case No. PD 2021-006	<b>184</b>
<b>7</b>	<b>ORDINANCE No. 5780</b> rezoning the Northwest corner of Frayser Boulevard and Ardmore Street; containing 0.7 acres in the Residential – 6 and Residential – 10 Districts up for SECOND reading. Case No. Z 21-04	<b>239</b>
<b>8</b>	<b>ORDINANCE No. 5782</b> rezoning the Southside of E. Holmes Road; +/- 1,534.97 feet west of Pleasant Hill Road; containing 4.05 acres in the Conservation Agriculture (CA) District up for SECOND reading. Case No. Z 21-01	<b>273</b>
<b>9</b>	<b>ORDINANCE No. 5783</b> approving a new historic overlay district located in the area roughly bound by Autumn Avenue to the North, North Claybrook Street to the East, Poplar Avenue to the South, and Interstate 240 to the West; containing +/-81.30 acres in the Historic (H) Overlay District up for F I R S T reading Case No. CTHD	<b>304</b>

**NOTE—THE REFERENCES TO THE PAGE NUMBERS USED IN THE ABOVE TABLE FOR SEPARATE PACKAGES FOR ZONING PUBLIC HEARINGS AND ZONING ORDINANCES ARE THE PAGE NUMBERS USED IN THE SEPARATE PACKAGES FOR THOSE ITEMS**

<b>10</b>	<b>ORDINANCE No. 5784</b> amending the Memphis and Shelby County Unified Development Code as adopted by the City of Memphis August 10, 2010, and by Shelby County August 9, 2010 as amended, to revise and enhance the Joint Zoning and Subdivision regulations as recommended by the Memphis and Shelby County Division of Planning and Development and the Land Use Control Board. This text amendment affects all property within the City of Memphis and unincorporated Shelby County, up for F I R S T reading. Case No. ZTA 21-01	<b>472</b>
	<b>CONSENT AGENDA</b>	
<b>11</b>	RESOLUTION approving an honorary street name change of Park Avenue between Inman Road and Haynes Street for Mrs. Irene Tuggle Mason. <b>(Request for same night minutes)</b>	<b>2</b>
<b>12</b>	RESOLUTION approving an honorary street name change of Lanier Lane between Willow Road and Mallory Avenue for Dr. Lulah M. Hedgeman. (	<b>3</b>
	<b>FISCAL CONSENT AGENDA</b>	
<b>13</b>	RESOLUTION to transfer four City of Memphis surplus Police Motorcycles to the City of Collierville to be used for City of Collierville Police Training. This resolution is sponsored by Finance and Public Safety Divisions. <b>(Request for same night minutes)</b>	<b>4</b>
<b>14</b>	RESOLUTION to accept award in the amount of (\$533,940.00) from BCBST Foundation to support Our Best Shot vaccine campaign. This resolution is sponsored by Executive Division. <b>(Request for same night minutes)</b>	<b>7</b>
	<b>MLGW FISCAL CONSENT AGENDA</b>	
<b>15</b>	RESOLUTION approving payment of annual sewer discharge fee for the 2020 filter backwash discharge to City of Memphis in the amount of \$572,504.87	<b>10</b>
<b>16</b>	RESOLUTION awarding Contract No. 12284, Uniform Rental and Cleaning, to Clean Uniforms, in the funded amount of \$101,640.00	<b>14</b>
<b>17</b>	RESOLUTION approving Change No. 15 to Contract No. 10793, Professional Portfolio Software with Advent Software, Incorporated, in the funded amount of \$33,408.11	<b>17</b>
<b>18</b>	RESOLUTION awarding Contract No.12233, Water Laboratory Emergency Generator Replacement to Barnes and Brower, Inc., in the funded amount of \$152,464.00	<b>20</b>
<b>19</b>	RESOLUTION awarding a purchase order to Summit Truck Group for the purchase of cab and chassis dump body trucks in the amount of \$367,556.00	<b>23</b>
<b>20</b>	RESOLUTION awarding a purchase order to AutoNation Ford Memphis, for transportation fleet vehicles in the amount of \$1,688,329.33	<b>27</b>

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21	RESOLUTION awarding a purchase order to Inspired E-Learning for MLGW's online Ethics and Compliance Training Programs for thirty-six-month subscription in the amount of \$91,334.00	34
22	RESOLUTION approving an amended rate schedule for the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC for legal services rendered concerning water rights litigation, patents, environmental, tort and contract litigation, regulatory matters and other legal matters uniquely related to the utility industry.	39
	<b>REGULAR AGENDA</b>	
23	<b>APPOINTMENTS</b> <u><i>Memphis &amp; Shelby County New Arena Public Building Authority</i></u> <b>Appointments</b> <ul style="list-style-type: none"> <li>• Senator Raumesh Akbari</li> <li>• Jerry Hall</li> <li>• Andre Turner</li> </ul> <u><i>Memphis &amp; Shelby County Sports Authority</i></u> <b>Appointments</b> <ul style="list-style-type: none"> <li>• Charles Ewing</li> <li>• Christopher Hearn</li> </ul>	42
24	ORDINANCE No. 5782 protecting public health and the environment, preserve the Memphis Sand Aquifer, and promote environmental justice, up for T H I R D and F I N A L reading	47
25	RESOLUTION requesting funding be allocated to the Group Violence Intervention Program (GVIP) Service Center	53
26	RESOLUTION requesting an amendment to the Fiscal Year 2021 General Funds Operating Budget in the amount (\$1,000,000.00) for the Information Technology Division	56
27	RESOLUTION authorizing a borrowing by the City from EDGE, requesting EDGE to issue revenue bonds of not-to-exceed (\$75,000,000.00) aggregate principal amount to fund a portion of Liberty Park Project	58
28	RESOLUTION approving the sale of two City owned parcels known as 0 Washington Ave and 0 Joy Place, Memphis, TN 38104. Parcel ID#'s 017017 00001Z and 017017 000011Z respectively	279
29	RESOLUTION approving the sale of a City owned property known as 2472 Zanone Avenue Memphis, TN 38114, Parcel ID#029053 00019	283
30	RESOLUTION approving proposed Consolidation Plan FY2022 Annual Action Plan appropriating Federal Entitlement Funds in the amount of \$15,983,863.00 to the FY2022 Housing and Community Development Budget	286
31	RESOLUTION acknowledging and establish communities that are in immediate need of beautification and blight remediation.	289
32	RESOLUTION approving the creation of the Academy of Civic Engagement	290

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	Minutes of April 6, 2021 Regular Meeting	291
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## **Resolution designating April 2021 as Second Chance Month**

WHEREAS, approximately 1 in 3 Americans have some type of criminal record; and

WHEREAS, even having a minor criminal record, such as a misdemeanor or even an arrest without conviction, can create an array of lifelong barriers that stand in the way of successful re-entry into society; ad

WHEREAS, more than 600,000 individuals a year return to their communities from state or federal prisons every year; and

WHEREAS, transitioning from incarceration can be a difficult process to navigate with the difficulties of the COVID-19 pandemic only adding complicating an already challenging situation; and

WHEREAS, formerly incarcerated individuals are 10 time more likely to experience homelessness and have an unemployment rate of 27%; and

WHEREAS, with an incarceration rate higher in Tennessee than the United States overall and a 3-year recidivism rate of almost 50%, we must use this time to spotlight the need for prevention, re-entry, and social support and work to remove barriers to successful re-entry; and

WHEREAS, by focusing on supportive measures rather than incarceration, we can hope raise awareness about the obstacles faced by over 70 million Americans with a criminal record and unlock opportunities for them to succeed.

NOW, THEREFORE, BE IT RESOLVED that the Memphis City Council designates April 2021 as Second Chance Month.

**Sponsor: Councilwoman Patrice Robinson**

Frank Colvett, Chairman

**WHEREAS**, when worthy circumstances arise, the Memphis City Council has seen fit to name certain public roads to honor citizens who have served this community; and

**WHEREAS**, **Mrs. Irene Tuggle Mason** and her legacy of achievement represent one of these worthy circumstances; and

**WHEREAS**, the youngest girl of eleven children, **Mrs. Mason** was raised in Memphis and graduated from Geeter High School; and

**WHEREAS**, a kindhearted and loving person, **Mrs. Mason** always aspired to be an entrepreneur within her community, as it was her professional calling to offer reliable services capable of brightening the lives of her fellow citizens; and

**WHEREAS**, a firm believer in the power of faith and the importance of faith-based dedication, **Mrs. Mason** realized her entrepreneurial dream in June 1977 when she established her namesake business: **Mason's Florist on Park Avenue**; since that time, the well-renowned flower shop – now *one of the oldest African-American owned flower shops within the City of Memphis* – is synonymous with excellence within the Orange Mound community and across the Greater Memphis region; and

**WHEREAS**, in doing so, **Mrs. Mason** has done more than provide quality flowers for every life occasion; she has tirelessly served as a beacon of hope for all those she encounters, spreading love throughout our City when it is needed most; and

**WHEREAS**, as a result, it is no surprise that **Mrs. Mason's** personal motto is, in the words of Philippians 4:13: "I can do *all* things through Christ which strengthens me;" and

**WHEREAS**, although **Mrs. Mason** finds immense fulfillment in being a skilled entrepreneur, her most prized roles will always be that of wife, mother, grandmother, great-grandmother, and church leader; **Mrs. Mason's** marriage to the late-Mr. John Mason, Sr. produced three wonderful children – Patricia Williams (Robert), Reverend John Mason, Jr. (Sandra), and Gwendolyn Hankins (David) – three grandchildren, Erica, Gregory, and Daela – and most recently, one great-grandchild, Da'Marion; furthermore, her love always being reflective of her abiding faith, **Mrs. Mason** is an active member of Prospect C.M.E. Church, where she serves under the leadership of Reverend Robert Howard Washington, as the Stewardess President, member of the Sunday School, and President of the Evangelism Department; and

**WHEREAS**, it is truly the sum of *all of these attributes and qualities* that make **Mrs. Mason** an invaluable member of the Memphis community.

**NOW THEREFORE, BE IT RESOLVED** that Park Avenue between Inman Road and Haynes Street be declared

## **"Irene Tuggle Mason Avenue"**

in honor of her exemplary contributions to the City of Memphis.

**BE IT FURTHER RESOLVED** that the City Engineer is requested to affix suitable signs designating this public road.

**Adopted: April 20, 2021**

**Sponsor:**  
Vice Chairwoman Jamita Swearengen

**WHEREAS**, upon occasion, the City Council approves the naming of specified public roads to honor those who have served this community, and the late **Dr. Lulah M. Hedgeman** is an impeccable example of such an exceptional leader deserving of this City's recognition and gratitude; and

**WHEREAS**, born on January 30, 1938 in Memphis, Tennessee, **Dr. Lulah M. Hedgeman** was the youngest child of the late Bishop A.B. McEwen and Mrs. Johanna Wells McEwen; and

**WHEREAS**, after completing the tenth grade at Hamilton High School, **Dr. Lulah M. Hedgeman** received a Bachelor of Arts in Music at Fisk University, later obtaining a Master of Music degree from Memphis State University and an Honorary Doctor of Fine Arts degree from Rhodes College; and

**WHEREAS**, touching so many lives of students, organizations, performers and people from all walks of life, **Dr. Lulah M. Hedgeman** taught music in the Chicago Public Schools, Memphis City Schools and at Memphis State University; and

**WHEREAS**, she later became a world-renowned Choral Director at Overton High School of Creative and Performing Arts from 1976 until her untimely death in 1997, and under **Dr. Lulah M. Hedgeman's** leadership, her choirs won first place in every national and international competition and were ranked number one in the state of Tennessee for 21 consecutive years; and

**WHEREAS**, receiving many accolades, **Dr. Lulah M. Hedgeman** was the recipient of the Walt Disney Company's Salute to the American Teacher, "Most Outstanding Performing Arts Teacher" Award presented by Oprah Winfrey; "Most Outstanding Conductor" and "Education" Award from the National Conference of Christians and Jews, "Prominent Black Woman Award," "Outstanding Educator," "Kentucky Colonel Award," "Arts and Letters Award," "Appreciation" Award, "Outstanding Contributions to Memphis," the Governor's Award by Memphis Chapter of the National Academy of Recording Arts and Sciences, the "Positive Image Award," "Who's Who in Memphis," "Teacher of the Year," and the first recipient of the Memphis Rotary Award for "Teacher Excellence," "Teacher of the Year," "Award of Merit" and Alumni Hall of Fame; and

**WHEREAS**, **Dr. Lulah M. Hedgeman** was also known for a movie, "Mr. Holland's Opus," which was dedicated to her, and as the Assistant Choral Director for the Grammy Awards All-American High School Jazz Choir, which led to her receiving the "Premiere Player" Award from the Memphis Chapter of the National Academy of Recording Arts & Sciences; and

**WHEREAS**, **Dr. Lulah M. Hedgeman** was also a dedicated member of Delta Sigma Theta Sorority, Inc., the Music Educators National Conference, National Association of Jazz Educators, Tennessee Music Educators Association, Black Music Caucus, Memphis Symphony League, Guild of Opera Memphis, American Choral Directors Association, a past president of Tennessee American Choral Directors Association, and a past president of the West Tennessee Vocal Music Educators Association; she was appointed by the Governor of Tennessee to the State Interim Certification Commission; and

**WHEREAS**, her incredible life and legacy is celebrated by her loving and devoted daughter, Dr. Denita Hedgeman, oldest sister, Gwendolyn McEwen Smith, and a multitude of family and friends.

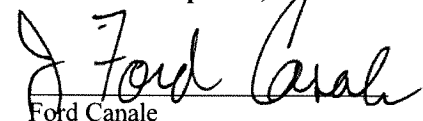
**NOW, THEREFORE, BE IT RESOLVED** by the Memphis City Council that Lanier Lane between Willow Road and Mallory Avenue be declared

**"Dr. Lulah M. Hedgeman Lane"**

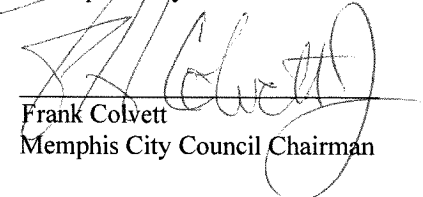
in honor of her life and many accomplishments.

**BE IT FURTHER RESOLVED**, that the City Engineer is requested to affix suitable signs designating this public road.

**ADOPTED: April 20, 2021**

  
Ford Canale

Memphis City Councilman

  
Frank Colvett  
Memphis City Council Chairman



G/03

## City Council Item Routing Sheet

Division Finance Committee Public Safety Hearing Date 4/20/2021  
 District ALL - City-wide Super District BOTH - City-wide

☐ Ordinance☒ Resolution☐ Grant Acceptance☐ Budget Amendment☐ Commendation☐ Other:

## Item Description :

Transfer 4 City of Memphis surplus Police Motorcycles to the City of Collierville Police Department.

## Recommended Council Action:

Approval of Resolution... with SAME NIGHT MINUTES

## Status of MWBE planned expenditures funding, if applicable:

N/A

Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken:

N/A

## Does this item require city expenditure? No

\$ Amount N/A

\$ Revenue to be received N/A

## Source and Amount of Funds

\$ Operating Budget N/A

\$ CIP Project # N/A

\$ Federal/State/Other N/A

Approvals K. Wyatt,  
 Purchasing Agent-Director for Tim Boyles Date 4/8/2021

Budget Manager Kamelish Wyatt Date 4/9/2021

Chief Financial Officer D. Ford Date 4/9/2021

Deputy Financial Officer \_\_\_\_\_ Date \_\_\_\_\_

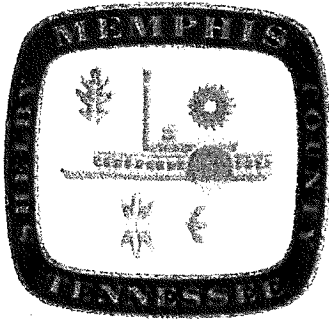
Chief Legal Officer \_\_\_\_\_ Date \_\_\_\_\_

Chief Administrative Officer

Council Committee Chair

\_\_\_\_\_ Date \_\_\_\_\_





**Resolution to transfer four City of Memphis  
surplus Police Motorcycles to the City of  
Collierville to be used for City of Collierville Police Training.**

**WHEREAS**, the City of Memphis has two 2002 and two 2004 Police Motorcycles that have been listed as surplus property; and

**WHEREAS**, the estimated value is \$3,500 per vehicle (\$14,000 total); and

**WHEREAS**, the Vehicle Identification Numbers are:

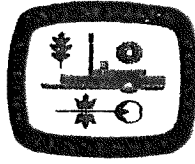
1. 2002 Harley Davidson VIN: 1HD1FMW182Y662275,
2. 2002 Harley Davidson VIN: 1HD1FMW172Y662302,
3. 2004 Harley Davidson VIN: 1HD1FMW114Y621702,
4. 2004 Harley Davidson VIN: 1HD1FMW144Y621371; and

**WHEREAS**, the City of Collierville is in need of said motorcycles to be used for training purposes for its Police Department; and

**WHEREAS**, the City of Memphis Purchasing Policies & Procedures Manual (Section 18.1.2) authorizes transfer of surplus property to another government entity if approved by Resolution; and

**WHEREAS**, T.C.A. 12-9-110 authorizes transfer of both real property and personal property to other public entities if used for a public purpose;

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Memphis that the vehicles described herein be approved for transfer to the City of Collierville.



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

Resolution authorizing the transfer of four surplus  
City of Memphis Police motorcycles to the City of Collierville  
SAME NIGHT MINUTES REQUESTED.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

Finance.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

N/A

**4. State whether this will impact specific council districts or super districts.**

No impact.

**5. State whether this requires a new contract, or amends an existing contract, if applicable.**

N/A

**6. State whether this requires an expenditure of funds/requires a budget amendment**

No expenditure required.

**7. If applicable, please list the MWBE goal and any additional information needed**

N/A



## City Council Item Routing Sheet

Division Executive/Coms Committee Personnel/Gov. Affairs Hearing Date 04/20/21  
 District \_\_\_\_\_ Super District \_\_\_\_\_

☐ Ordinance

☐ Resolution

☒ Grant Acceptance

☐ Budget Amendment

☐ Commendation

☐ Other:

**Item Description :**

Accept award from BCBST Foundation to support Our Best Shot vaccine campaign

**Recommended Council Action:**

Accept the grant funds

**Status of MWBE planned expenditures Funding**

35% of the project spend to date

Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken:

N/A

**Does this item require city expenditure? No**

\$ Amount \_\_\_\_\_

\$ Revenue to be received \$533,940.00

**Source and Amount of Funds**

\$ Operating Budget

\$ CIP Project #

\$ Federal/State/Other Other

**Approvals**

Director Marie Fila Date 3/26/21

Budget Manager \_\_\_\_\_ Date \_\_\_\_\_

**Chief Administrative Officer**

Chief Financial Officer \_\_\_\_\_ Date \_\_\_\_\_

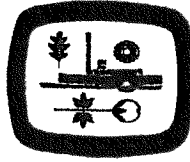
\_\_\_\_\_ Date \_\_\_\_\_

Deputy Financial Officer \_\_\_\_\_ Date \_\_\_\_\_

**Council Committee Chair**

Chief Legal Officer \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

Grant from BCBST Foundation to support Our Best Shot COVID-19 vaccine campaign

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

Executive (Communications)

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

N/A

**4. State whether this will impact specific council districts or super districts.**

All

**5. State whether this requires a new contract, or amends an existing contract, if applicable.**

New grant agreement

**6. State whether this requires an expenditure of funds/requires a budget amendment**

yes, amend FY21 Operating budget to accept \$533,940.00

**7. If applicable, please list the MWBE goal and any additional information needed**

no goal was set but there has been a 35% MWBE spend on the project to date

## **RESOLUTION**

**WHEREAS**, as COVID-19 vaccines become widely available, it is important to ensure residents are informed with accurate information about COVID-19 immunization and that communities have the necessary resources to provide efficient and equitable distribution of COVID-19 vaccines; to aid in this mission, the BlueCross BlueShield of Tennessee Foundation (BCBST) generously made grant funds available to Tennessee cities to develop and implement campaigns to encourage and facilitate COVID-19 vaccinations; and

**WHEREAS**, on behalf of the Memphis and Shelby County Joint COVID-19 Task Force, the City of Memphis has made successful application to support the "Our Best Shot" campaign and has received a generous gift from BCBST; and

**WHEREAS**, the ultimate goal of the Our Best Shot campaign is attaining herd immunity in Shelby County, which necessitates approximately 700,000 individuals getting vaccinated in the next 6-8 months; attaining herd immunity will allow our community to safely get back to work, school, and life resembling what we once knew; and

**WHEREAS**, Our Best Shot is the next phase of the overall COVID-19 Joint Task Force messaging strategy and will be an addition to the continuing campaigns around masking and testing; Our Best Shot is based on research on local residents' views about the COVID-19 pandemic including likelihood to receive the COVID vaccine and information sources most likely to impact this decision; and

**WHEREAS**, the City received \$533,940.00 from BCBST for media buys in the Memphis market (which covers three states) including radio, television, and digital marketing in English and Spanish; spots feature prominent and credible local spokespersons; as with past COVID-19 communications, we will leverage the platforms of the Mayors in all Shelby County municipalities including social media, their websites, and list serves.

**NOW, THEREFORE BE IT RESOLVED**, the FY21 (Executive Communications) budget is amended to accept \$533,940.00 to be appropriated for use as approved by the grantor, BCBST.

## Memphis City Council Summary Sheet for MLGW Items

**1. Description of the Item**

Resolution approving payment of annual sewer discharge fee for the 2020 filter backwash discharge to City of Memphis in the amount of \$572,504.87.

**2. Additional Information**

This fee is calculated based on the annual submitted volume and the total suspended solids (TSS) concentration reported for each of the water pumping stations. A TSS surcharge is applied for TSS concentrations over 300 ppm monthly.

## **CITY COUNCIL RESOLUTION**

**WHEREAS**, the Board of Light, Gas and Water Commissioners at its meeting held April 7, 2021, approved payment of invoice from the City of Memphis's Public Works Department for the annual sewer discharge fee for MLGW's 2020 filter backwash discharge for eight water pumping stations in the amount of \$572,504.87.

**NOW THEREFORE BE IT RESOLVED** by the Council of the City of Memphis, that payment of invoice from the City of Memphis's Public Works Department in the amount of \$572,504.87, payable to the City of Memphis Sewer Fund as set forth in the foregoing preamble is approved.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**April 7, 2021**

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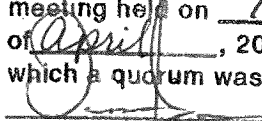
The Vice President of Engineering and Operations presented for consideration of the Board, payment of an invoice from the City of Memphis Public Works Department for the annual sewer discharge fee for the 2020 filter backwash discharge for eight water pumping stations in the amount of \$572,504.87.

This fee is calculated based on the annual submitted volume and the total suspended solids (TSS) concentration reported for each of the water pumping stations. A TSS surcharge is applied for TSS concentrations over 300 ppm on a monthly basis. The breakdown of the fee is attached.

NOW THEREFORE BE IT RESOLVED by the Board of Light, Gas and Water Commissioners:

THAT, subject to the consent and approval of the Council of the City of Memphis, the Secretary-Treasurer is hereby authorized and directed to have a check issued in the amount of \$572,504.87, payable to City of Memphis Sewer Fund.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a ~~regular~~-special meeting held on 7<sup>th</sup> day of April, 2021, at which a quorum was present.

 Secretary-Treasurer



## 2020 FILTER BACKWASH DISCHARGE

### FEE BREAKDOWN

WATER PUMPING STATION	VOLUMETRIC (total)		TSS (total)	TSS SURCHARGE	VOLUME COST	TOTAL
	Gallons	CCFs	PPM	(\$0.0716/PPM)	(\$2.147/CCF)	per station
Allen	10,931,232	14,613.95	7,056	\$2,163.00	\$36,286.43	\$38,449.43
Davis	31,146,148	41,639.24	5,453	\$5,318.70	\$103,390.22	\$108,708.92
Lichterhan	12,895,441	17,239.89	874	\$0.00	\$42,806.66	\$42,806.66
Mallory	25,658,792	34,303.20	768	\$0.00	\$85,174.84	\$85,174.84
McCord	27,442,597	36,687.96	2,221	\$242.73	\$91,096.21	\$91,338.94
Morton	36,581,905	48,906.29	4,132	\$4,349.79	\$121,434.32	\$125,784.11
Palmer	3,246,654	4,340.45	1,553	\$0.00	\$10,777.33	\$10,777.33
Sheahan	20,720,727	27,701.51	2,048	\$681.80	\$68,782.84	\$69,464.64
<b>SUBTOTAL</b>	168,623,496			<b>\$12,756.02</b>	<b>\$559,748.85</b>	
<b>GRAND TOTAL</b>						<b>\$572,504.87</b>

## **Memphis City Council Summary Sheet for MLGW Items**

### **1. Description of the Item**

Resolution awarding a purchase order under Contract No. 12284, uniform rental and cleaning, to Clean Uniforms, in the funded not-to-exceed amount of \$101,640.00.

### **2. Additional Information**

The project scope is to rent and clean flame-resistant uniforms that meet the requirements of NFPA 2112, Standard on Flame Resistant garments for the protection of personnel against flash fire exposure and injury. The term of this purchase order is 36 months

## RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of April 7, 2021, awarded a purchase order under Contract No. 12284, Uniform Rental and Cleaning to Clean Uniforms in the funded not-to-exceed amount of \$101,640.00, and is now recommending to the Council of the City of Memphis that it approves said award as proposed; and

WHEREAS, the project scope is to rent and clean flame-resistant uniforms that meet the requirements of NFPA 2112, Standard on Flame Resistant garments for the protection of personnel against flash fire exposure and injury.

WHEREAS, the Notice to Bidders was advertised using Oracle and the Memphis Daily News on December 22, 2020 under Requisition 890201. MLGW solicited five (5) bids; and received three (3) bids on December 22, 2020. The lowest and best bid was from Clean Uniforms in the amount of \$33,880.00. The term of this purchase order is for 36 months from the date of the Notice to Proceed. This award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12284, Uniform Rental and Cleaning to Clean Uniforms, in the funded not-to-exceed amount of \$101,640.00 as approved.

**EXCERPT**  
**from**  
**MINUTES OF MEETING**  
**of**  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
**held**  
**April 7, 2021**

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The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards a purchase order under Contract No. 12284, Uniform Rental and Cleaning to Clean Uniforms in the funded not-to-exceed amount of \$101,640.00.

The project scope is to rent and clean flame-resistant uniforms that meet the requirements of NFPA 2112, Standard on Flame Resistant garments for the protection of personnel against flash fire exposure and injury.

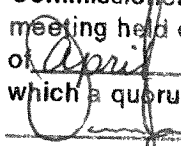
The Notice to Bidders was advertised using Oracle and the Memphis Daily News on December 7, 2020 under Requisition 890201. MLGW solicited five (5) bids; and received three (3) bids on December 22, 2020. The lowest and best bid was from Clean Uniforms in the amount of \$33,880.00. The term of this purchase order is for 36 months from the date of the Notice to Proceed. This award complies with all applicable laws and policies.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the award of Contract No. 12284, Uniform Rental and Cleaning to Clean Uniforms, in the funded not-to-exceed amount of \$101,640.00, as outlined in the foregoing preamble, is approved and further,

THAT, the President or his designated representative is authorized to execute the Award.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a ~~regular~~-special meeting held on 7<sup>th</sup> day of April, 2021, at which a quorum was present.

 Secretary-Treasurer

## **Memphis City Council Summary Sheet for MLGW Items**

### **1. Description of the Item**

Resolution approving Change No. 15 to Contract No. 10793, Professional Portfolio Software with Advent Software, Incorporated, in the funded amount of \$33,408.11. (This change is to renew the current contract for an additional year for the period covering May 11, 2021 through May 10, 2022. MLGW is requesting approval of continuous maintenance support of the acquired system, which can only be performed by Advent Software, Incorporated.)

### **2. Additional Information**

The project scope is to provide accounting and portfolio management for MLGW's Treasury Management Department.

## RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of April 7, 2021 approved Change No. 15 to Contract No. 10793, Professional Portfolio Software with Advent Software, Incorporated to renew the current contract in the funded amount of \$33,408.11, and is now recommending to the Council of the City of Memphis that it approves said renewal as approved; and

WHEREAS, the project scope is to provide accounting and portfolio management for MLGW's Treasury Management Department. This change is to renew the current contract for an additional year for the period covering May 11, 2021 through May 10, 2022 in the funded amount of \$33,408.11. MLGW is requesting approval of continuous maintenance support of the acquired system, which can only be performed by Advent Software, Incorporated. This sole source renewal complies with all applicable laws and policies. The new contract value is \$579,034.86; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved Change No. 15 to Contract No. 10793, Professional Portfolio Software with Advent Software, Incorporated to renew the current contract in the funded amount of \$33,408.11 as approved.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**April 7, 2021**

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The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners, the approval of Change No. 15 to Contract No. 10793, Professional Portfolio Software with Advent Software, Incorporated to renew the current contract in the funded amount of \$33,408.11.

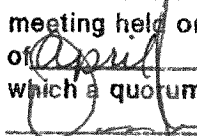
The project scope is to provide accounting and portfolio management for MLGW's Treasury Management Department. This change is to renew the current contract for an additional year for the period covering May 11, 2021 through May 10, 2022 in the funded amount of \$33,408.11. MLGW is requesting approval of continuous maintenance support of the acquired system, which can only be performed by Advent Software, Incorporated. This sole source renewal complies with all applicable laws and policies. The new contract value is \$579,034.86.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the approval of Change No. 15 to Contract No. 10793, Professional Portfolio Software, with Advent Software, Incorporated to renew the current contract in the funded amount of \$33,408.11, as outlined in the above preamble, is approved; and further

THAT, the President or his designated representative is authorized to execute the Renewal.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular ~~special~~ meeting held on 7<sup>th</sup> day of April, 2021, at which a quorum was present.

 Secretary-Treasurer

## Memphis City Council Summary Sheet for MLGW Items

### 1. Description of the Item

Resolution awarding Contract No.12233, Water Laboratory Emergency Generator Replacement to Barnes and Brower, Inc., in the funded amount of \$152,464.00.

### 2. Additional Information

The project scope is to furnish supervision, labor, transportation, equipment and materials to perform the following: remove and dispose of the existing emergency power generating equipment which includes a generator, fuel tank, transfer switch and concrete pads; purchase and install a new generator, fuel tank, transfer switch and concrete pads at MLGW's Water Laboratory located at 3937 Grandview Avenue in Memphis, Tennessee 38111.



## RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of April 7, 2021 awarded Contract No. 12233, Water Laboratory Emergency Generator Replacement to Barnes and Brower, Incorporated in the funded amount of \$152,464.00, and is now recommending to the Council of the City of Memphis that it approves said award as approved; and

WHEREAS, the project scope is to furnish supervision, labor, transportation, equipment and materials to perform the following: remove and dispose of the existing emergency power generating equipment which includes a generator, fuel tank, transfer switch and concrete pads; purchase and install a new generator, fuel tank, transfer switch and concrete pads at MLGW's Water Laboratory located at 3937 Grandview Avenue in Memphis, Tennessee 38111.

WHEREAS, the Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on December 18, 2020. MLGW solicited thirteen (13) bidders; and received six (6) bids on January 19, 2021. The lowest and best bid was from Barnes and Brower, Incorporated in the amount of \$152,464.00. The term of this contract is for one (1) year from the date of the Notice to Proceed. This award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12233, Water Laboratory Emergency Generator Replacement to Barnes and Brower, Incorporated in the funded amount of \$152,464.00 as approved.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**April 7, 2021**

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The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12233, Water Laboratory Emergency Generator Replacement to Barnes and Brower, Incorporated in the funded amount of \$152,464.00.

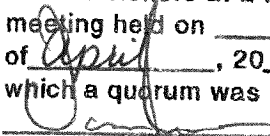
The project scope is to furnish supervision, labor, transportation, equipment and materials to perform the following: remove and dispose of the existing emergency power generating equipment which includes a generator, fuel tank, transfer switch and concrete pads; purchase and install a new generator, fuel tank, transfer switch and concrete pads at MLGW's Water Laboratory located at 3937 Grandview Avenue in Memphis, Tennessee 38111.

The Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on December 18, 2020. MLGW solicited thirteen (13) bidders; and received six (6) bids on January 19, 2021. The lowest and best bid was from Barnes and Brower, Incorporated in the amount of \$152,464.00. The term of this contract is for one (1) year from the date of the Notice to Proceed. This award complies with all applicable laws and policies.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the award of Contract No. 12233, Water Laboratory Emergency Generator Replacement to Barnes and Brower, Incorporated in the funded amount of \$152,464.00, as outlined in the above preamble, is approved and further

THAT, the President or his designated representative is authorized to execute the Award.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a ~~regular~~-special meeting held on 7th day of April, 2021, at which a quorum was present.  
 Secretary-Treasurer

## **Memphis City Council Summary Sheet for MLGW Items**

### **1. Description of the Item**

Resolution awarding a purchase order to Summit Truck Group for the purchase of cab and chassis dump body trucks in the amount of \$367,556.00.

### **2. Additional Information**

This purchase is for cab & chassis with a ten-yard dump body which will be used to maintain the electric, gas and water systems and for various customer service functions throughout Memphis and Shelby County.

## **RESOLUTION**

**WHEREAS**, the Board of Light, Gas and Water Commissioners in their meeting of April 7, 2021 approved the purchase of cab and chassis dump body trucks and is now recommending to the Council of the City of Memphis that it approves said purchase as approved in the 2021 fiscal year budget; and

**WHEREAS**, this purchase is for cab and chassis with a ten-yard dump body which will be used to maintain the electric, gas and water systems and for various customer service functions throughout Memphis and Shelby County; and

**WHEREAS**, bids were opened on March 3, 2021. Notice to Bidders was advertised. Three (3) bids were solicited and two (2) bids were received with the lowest and best complying bidder being the firm of Summit Truck Group. This award complies with all applicable laws and policies; and

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Memphis that there be and is hereby approved the purchase of cab and chassis dump body trucks from Summit Truck Group in the sum of \$367,556.00 chargeable to the MLGW 2021 fiscal year budget.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**April 7, 2021**

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The Manager of Procurement, Contracts and Supplier Diversity recommends to the Board of Light, Gas and Water Commissioners that it awards a purchase order to Summit Truck Group in the amount of \$367,556.00 for the purchase of cab and chassis dump body trucks.

This purchase is for cab & chassis with a ten-yard dump body which will be used to maintain the electric, gas and water systems and for various customer service functions throughout Memphis and Shelby County.

Bids were opened on March 3, 2021. Notice to Bidders was advertised. Three (3) bids were solicited and two (2) bids were received with the lowest and best complying bidder being the firm of Summit Truck Group. This award complies with all applicable laws and policies.

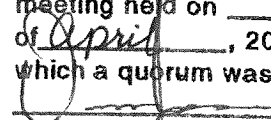
The 2021 budgeted amount for Transportation and Fleet Services is \$12,700,123.00; of which \$367,556.00 will be spent on this purchase order in 2021; leaving a balance of \$12,332,567.00 after award; and

**NOW THEREFORE BE IT RESOLVED BY** the Board of Light,  
Gas and Water Commissioners:

THAT, subject to the consent and approval of the Council of the City of Memphis, award of purchase order to Summit Truck Group is approved for furnishing:

Latest model cab and chassis having at least a 54,000-pound GVW rating and a ten-yard dump body all in accordance with Division Specification No. T10YDT-21-5125;

Totaling \$367,556.00; f.o.b. Memphis, Tennessee, our dock,  
transportation prepaid; prices being firm, terms net 30 days;  
delivery 180-200 days after receipt of order.

I hereby certify that the foregoing is a  
true copy of a resolution accepted by  
the Board of Light, Gas and Water  
Commissioners at a regular-special  
meeting held on 7<sup>th</sup> day  
of April, 2021, at  
which a quorum was present.  
 Secretary-Treasurer

## **Memphis City Council Summary Sheet for MLGW Items**

### **1. Description of the Item**

Resolution awarding a purchase order to AutoNation Ford Memphis, for transportation fleet vehicles in the amount of \$1,688,329.33.

### **2. Additional Information**

The transportation fleet vehicles purchase consists of  $\frac{3}{4}$  and  $\frac{1}{2}$  ton pickup trucks, one ton cab and chassis, crew cab and chassis, service body trucks and cargo vans which will be used by employees Division wide to maintain the electric, gas and water systems and various customer service functions throughout Shelby County.

## **RESOLUTION**

**WHEREAS**, the Board of Light, Gas and Water Commissioners in their meeting of April 7, 2021 approved the purchase of transportation fleet vehicles and is now recommending to the Council of the City of Memphis that it approves said purchase as approved in the 2021 fiscal year budget; and

**WHEREAS**, the transportation fleet vehicles purchase includes various size light duty work trucks and cargo vans which will be used by employees Division wide to maintain the electric, gas and water systems and various customer service functions throughout Shelby County; and

**WHEREAS**, bids were opened on March 3, 2021. Notice to Bidders was advertised. Seven (7) bids were solicited and two (2) bids were received with the lowest and best complying bidder being the firm of AutoNation Ford Memphis. This award complies with all applicable laws and policies.

The award includes the following items of equipment:

- Latest model cargo mini-van with rear cargo doors, all in accordance with Division Specification No. TVT-21-0025;
- Latest model full size cargo van cargo doors on the curbside, all in accordance with Division Specification No. TVT-21-0035;
- Latest model 1/2-Ton full size regular cab short wheelbase pickup all in accordance with Division Specification No. TPU-21-0065;
- Latest model 1/2-ton, full size, extended cab, standard bed, 4wheel drive, pickup trucks, all in accordance with Division Specification No. TPU-21-0066;
- Latest model, ½-ton, full size, E85 pickup trucks with a long wheelbase, all in accordance with Division Specification No. TPU-21-0074;



- Latest model 1/2-ton, full size, extended cab, standard bed, pickup trucks, all in accordance with Division Specification No. TPU-21-0078;
- Latest model 1/2-ton, full size, standard bed, 4-wheel drive, pickup trucks, all in accordance with Division Specification No. TPU-21-0079;
- Latest model 1/2-ton full size crew cab, standard bed, pickup trucks, all in accordance with Division Specification No. TPU-21-0080;
- Latest model 3/4-ton full size long wheelbase pickup trucks, all in accordance with Division Specification No. TPU-21-0085;
- Latest model 3/4-ton regular cab long wheelbase 4 x 4 pickup trucks, all in accordance with Division specification No. TPU-21-0086;
- Latest model 3/4-ton full size, crew cab, 4-wheel drive, pickup trucks, all in accordance with Division specification No. TPU-21-0089;
- Latest model single rear wheel cab and chassis with a 60-inch cab to axle dimension, all in accordance with Division Specification No. TCC-21-1161;
- Latest model crew cab and Chassis with dual rear wheel and 60-inch cab to axle dimension, all in accordance with Division Specification No. TCC-21-1171;
- Latest model crew cab and chassis with 84-inch cab to axle dimension, all in in accordance with Division Specification No. TCC-21-1190;
- Latest model crew cab and chassis, 4X4, dual rear wheel, 60" cab to axle dimension with flat-bed body, all in accordance Division Specification No. TDWFB-21-1210;
- Latest model dual rear wheel cab and chassis with a 60-inch cab to axle dimension with a nine (9) foot stake body, all in accordance with Division Specification No. TDWSKB-21-5015;
- Latest model crew cab and chassis with dual rear wheels and 84-inch cab to axle dimension with enclosed service body, all in accordance with Division Specification No. TSBT-21-5027;

- Latest model single rear wheel crew cab and chassis with a 60-inch cab to axle dimension with service body, all in accordance with Division Specification No. TSWSB-21-5203;
- Latest model single rear wheel extended cab and chassis with a 60-inch cab to axle dimension with service body, all in accordance with Division Specification No. TSWSB-21-5204;
- Latest model cab and chassis with single rear wheels and 60-inch cab to axle dimension with service body, all in accordance with Division Specification No. TSWSB-21-5207;
- Latest model cab and chassis with dual rear wheels and 60-inch cab to axle dimension with service body, all in accordance Division Specification No. TDWSB-21-5208;

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Memphis that there be and is hereby approved the purchase of transportation fleet vehicles from AutoNation Ford Memphis in the sum of \$1,688,329.33 chargeable to the MLGW 2021 fiscal year budget.

**EXCERPT**  
**from**  
**MINUTES OF MEETING**  
**of**  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
**held**  
**April 7, 2021**

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The Manager of Procurement, Contracts and Supplier Diversity recommends to the Board of Light, Gas and Water Commissioners that it awards a purchase order to AutoNation Ford Memphis in the amount of \$1,688,329.33 for transportation fleet vehicles.

The transportation fleet vehicles purchase consists of  $\frac{3}{4}$  and  $\frac{1}{2}$  ton pickup trucks, one ton cab and chassis, crew cab and chassis, service body trucks and cargo vans which will be used by employees Division wide to maintain the electric, gas and water systems and various customer service functions throughout Shelby County.

Bids were opened on March 3, 2021. Notice to Bidders was advertised. Seven (7) bids were solicited and two (2) bids were received with the lowest and best complying bidder being the firm of AutoNation Ford Memphis. This award complies with all applicable laws and policies.

The 2021 budgeted amount for Transportation and Fleet Services is \$12,700,123.00; of which \$1,688,329.33 will be spent on this purchase order in 2021; leaving a balance of \$11,011,793.67 after award; and

**NOW THEREFORE BE IT RESOLVED BY** the Board of Light, Gas and Water Commissioners:

THAT, subject to the consent and approval of the Council of the City of Memphis, award of purchase order to AutoNation Ford Memphis is approved for furnishing:

Latest model cargo mini-van with rear cargo doors, all in accordance with Division Specification No. TVT-21-0025,

Latest model full size cargo van cargo doors on the curbside, all in accordance with Division Specification No. TVT-21-0035,

Latest model 1/2-Ton full size regular cab short wheelbase pickup all in accordance with Division Specification No. TPU-21-0065,

Latest model 1/2-ton, full size, extended cab, standard bed, 4wheel drive, pickup trucks, all in accordance with Division Specification No. TPU-21-0066,

Latest model, ½-ton, full size, E85 pickup trucks with a long wheelbase, all in accordance with Division Specification No. TPU-21-0074,

Latest model 1/2-ton, full size, extended cab, standard bed, pickup trucks, all in accordance with Division Specification No. TPU-21-0078,

Latest model 1/2-ton, full size, standard bed, 4-wheel drive, pickup trucks, all in accordance with Division Specification No. TPU-21-0079,

Latest model 1/2-ton full size crew cab, standard bed, pickup trucks, all in accordance with Division Specification No. TPU-21-0080,

Latest model 3/4-ton full size long wheelbase pickup trucks, all in accordance with Division Specification No. TPU-21-0085,

Latest model 3/4-ton regular cab long wheelbase 4 x 4 pickup trucks, all in accordance with Division specification No. TPU-21-0086,

Latest model 3/4-ton full size, crew cab, 4-wheel drive, pickup trucks, all in accordance with Division specification No. TPU-21-0089,

Latest model single rear wheel cab and chassis with a 60-inch cab to axle dimension, all in accordance with Division Specification No. TCC-21-1161,

Latest model crew cab and Chassis with dual rear wheel and 60-inch cab to axle dimension, all in accordance with Division Specification No. TCC-21-1171,

Latest model crew cab and chassis with 84-inch cab to axle dimension, all in accordance with Division Specification No. TCC-21-1190,

Latest model cab and chassis, 4X4, dual rear wheel, 60" cab to axle dimension with flat-bed body, all in accordance Division Specification No. TDWFB-21-1210,

Latest model dual rear wheel cab and chassis with a 60-inch cab to axle dimension with a nine (9) foot stake body, all in accordance with Division Specification No. TDWSKB-21-5015,

Latest model crew cab and chassis with dual rear wheels and 84-inch cab to axle dimension with enclosed service body, all in accordance with Division Specification No. TSBT-21-5027,

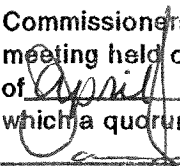
Latest model single rear wheel crew cab and chassis with a 60-inch cab to axle dimension with service body, all in accordance with Division Specification No. TSWSB-21-5203,

Latest model single rear wheel extended cab and chassis with a 60-inch cab to axle dimension with service body, all in accordance with Division Specification No. TSWSB-21-5204,

Latest model cab and chassis with single rear wheels and 60-inch cab to axle dimension with service body, all in accordance with Division Specification No. TSWSB-21-5207,

Latest model cab and chassis with dual rear wheels and 60-inch cab to axle dimension with service body, all in accordance Division Specification No. TDWSB-21-5208,

Total award amount to \$1,688,329.33 f.o.b. Memphis, Tennessee, transportation prepaid; our dock; said prices being firm; delivery 112-272 days after receipt of order; terms net 30 days.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular-special meeting held on 7<sup>th</sup> day of April, 20 21, at which a quorum was present.  
  
Secretary-Treasurer

## **Memphis City Council Summary Sheet for MLGW Items**

### **1. Description of the Item**

Resolution awarding a purchase order to Inspired E-Learning for MLGW's online Ethics and Compliance Training Programs for thirty-six month subscription in the amount of \$91,334.00.

### **2. Additional Information**

The Ethics and Compliance Training Programs will allow security awareness, ethics, and anti-harassment/bullying training for the Division. MLGW must routinely train its personnel about cyber and physical security, anti-harassment/bullying, and other topics related to its ethics and compliance programs.

## **RESOLUTION**

**WHEREAS**, the Board of Light, Gas and Water Commissioners in their meeting of April 7, 2021, approved a thirty-six (36) month subscription for MLGW's online Ethics and Compliance Training Programs and is now recommending to the Council of the City of Memphis that it approves said purchase as approved in the 2021 fiscal year budget and subsequent budget years as approved; and

**WHEREAS**, the Ethics and Compliance Training Programs will allow security awareness, ethics, and anti-harassment/bullying training for the Division for a thirty-six (36) month period. MLGW must routinely train its personnel about cyber and physical security, anti-harassment/bullying, and other topics related to its ethics and compliance programs; and

**WHEREAS** bids were opened on September 30, 2020. Notice to Bidders was advertised. Nineteen (19) bids were solicited and four (4) bids were received with the lowest and best complying bidder being the firm of Inspired eLearning. This award complies with all applicable laws and policies; and

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Memphis that there be and is hereby approved a thirty-six (36) month subscription for Ethics and Compliance Training Programs from Inspired eLearning in the amount of \$36,578.00 chargeable to the MLGW 2021 fiscal year budget and the balance of \$54,756.00 chargeable to subsequent budget years as approved.



**EXCERPT**  
**from**  
**MINUTES OF MEETING**  
**of**  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
**held**  
**April 7, 2021**

---

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards a thirty-six (36) month purchase order to Inspired eLearning for MLGW's online Ethics and Compliance Training Programs subscription in the amount of \$91,334.00.

The Ethics and Compliance Training Programs will allow security awareness, ethics, and anti-harassment/bullying training for the Division for a thirty-six (36) month period. MLGW must routinely train its personnel about cyber and physical security, anti-harassment/bullying, and other topics related to its ethics and compliance programs.

Bids were opened on September 30, 2020. Notice to Bidders was advertised. Nineteen (19) bids were solicited and four (4) bids were received with the lowest and best complying bidder being the firm of Inspired eLearning. This award complies with all applicable laws and policies.

The 2021 budget amount for the purchase of Ethics and Compliance Training is \$131,897.00; of which \$36,578.00 will be spent on this purchase order in 2021; leaving a balance of \$95,319.00 after award; the balance of \$54,756.00 to be spent from subsequent budget years as approved; and

**NOW THEREFORE BE IT RESOLVED BY** the Board of Light, Gas and Water Commissioners:

THAT, subject to the consent and approval of the Council of the City of Memphis, award Purchase order to Inspired eLearning, is approved for furnishing:

Security Awareness Training Subscription Option 1 Incremental (12a);

Hourly Price Additional Customization (13a);

Harassment & Bulling Training Annual Subscription Incremental (10b);

Hourly price for additional customization (11a);

Annual Subscription to Advanced Library & related content (12);

Total award amount is \$91,334.00; terms net 30 days.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular-special meeting held on 7<sup>th</sup> day of April, 20 21, at which a quorum was present.

 Secretary-Treasurer

## Memphis City Council Summary Sheet for MLGW Items

**1. Description of the Item**

Resolution approving an amended rate schedule for the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC for legal services rendered concerning water rights litigation, patents, environmental, tort and contract litigation, regulatory matters and other legal matters uniquely related to the utility industry.

**2. Additional Information**

The amended rate schedule represents an increase in the rates to be paid to such firm engaged on an as needed basis.

### **RESOLUTION**

**WHEREAS**, on April 7, 2021 the Vice President and General Counsel recommended to the Board of Light, Gas and Water Commissioners, that the hourly rates for work performed by the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC employed on an “as needed” basis, be increased to the following rates:

Senior Counsel	-	\$485 - \$500
Shareholder	-	\$280 - \$360
Associates	—	\$230 - \$290
Paralegals	—	\$130 - \$150

**NOW THEREFORE BE IT RESOLVED** by the Council of the City of Memphis that MLGW is authorized to employ the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC on an “as needed” basis at the new hourly rates set forth in the foregoing preamble.

**EXCERPT**  
**from**  
**MINUTES OF MEETING**  
**of**  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
**held**  
**April 7, 2021**

---

The Vice President and General Counsel submitted for Board approval an amended rate schedule for the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC for legal services rendered concerning water rights litigation, patents, environmental, tort and contract litigation, regulatory matters and other legal matters uniquely related to the utility industry.

The Vice President and General Counsel recommends that Baker, Donelson, Bearman, Caldwell & Berkowitz, PC be employed on an "as needed" basis at the following hourly rates:

Senior Counsel	-	\$485 - \$500
Shareholder	-	\$280 - \$360
Associates	-	\$230 - \$290
Paralegals	-	\$130 - \$150

**NOW THEREFORE BE IT RESOLVED BY** the Board of Light, Gas and Water Commissioners:

**THAT**, Subject to the consent and approval of the City Council of the City of Memphis, the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC shall be employed on an "as needed" basis at the hourly rates set forth in the foregoing preamble.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular - special meeting held on 7 day of April, 2021, at which a quorum was present.

  
Secretary - Treasurer

March 29, 2021

The Honorable Chase Carlisle, Chairman  
Personnel, Government Affairs, and Annexation Committee  
City Hall - Room 514  
Memphis, TN 38103

Dear Chairman Carlisle:

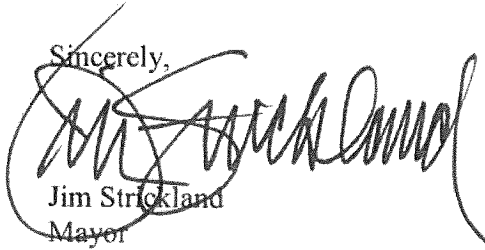
Subject to Council approval, I hereby recommend that:

**Senator Raumesh Akbari**

be appointed to the joint position of the Memphis and Shelby County New Arena Public Building Authority with a term not to extend beyond the senator's current term of office in the Tennessee General Assembly.

I have attached biographical information.

Sincerely,



Jim Strickland  
Mayor

JSS/sss

Cc: Council Members



TENNESSEE

JIM STRICKLAND  
MAYOR

March 29, 2021

The Honorable Chase Carlisle, Chairman  
Personnel, Government Affairs, and Annexation Committee  
City Hall - Room 514  
Memphis, TN 38103

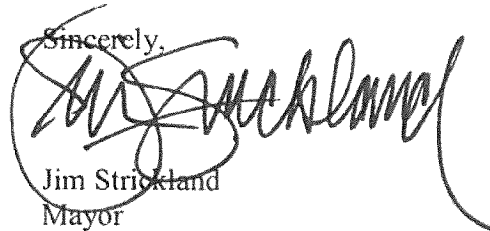
Dear Chairman Carlisle:

Subject to Council approval, I hereby recommend that:

**Jerry Hall**

be appointed to the joint position of the Memphis and Shelby County New Arena Public Building Authority with a term expiring July 30, 2023.

I have attached biographical information.

Sincerely,  
  
Jim Strickland  
Mayor

JSS/sss

Cc: Council Members



**JIM STRICKLAND**  
MAYOR

March 29, 2021

The Honorable Chase Carlisle, Chairman  
Personnel, Government Affairs, and Annexation Committee  
City Hall - Room 514  
Memphis, TN 38103

Dear Chairman Carlisle:

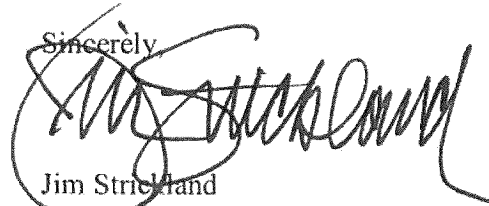
Subject to Council approval, I hereby recommend that:

**Andre Turner**

be appointed to the joint position of the Memphis and Shelby County New Arena Public Building Authority with a term expiring July 30, 2027.

I have attached biographical information

Sincerely,



Jim Strickland  
Mayor

JSS/ss

Cc: Council Members





TENNESSEE

**JIM STRICKLAND**  
MAYOR

March 29, 2021

The Honorable Chase Carlisle, Chairman  
Personnel, Government Affairs, and Annexation Committee  
City Hall - Room 514  
Memphis, TN 38103

Dear Chairman Carlisle:

Subject to Council approval, I hereby recommend that:

**Charles Ewing**

be appointed to the Memphis and Shelby County Sports Authority with a term expiring March 30, 2025.

I have attached biographical information.

Sincerely,

Jim Strickland  
Mayor

JSS/sss

Cc: Council Members

March 29, 2021

The Honorable Chase Carlisle, Chairman  
Personnel, Government Affairs, and Annexation Committee  
City Hall - Room 514  
Memphis, TN 38103

Dear Chairman Carlisle:

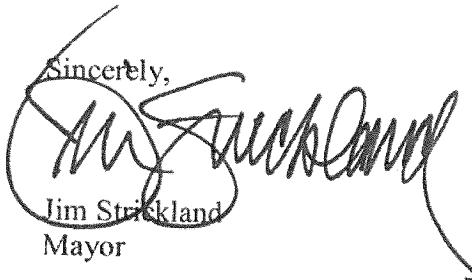
Subject to Council approval, I hereby recommend that:

**Christopher Hearn**

be appointed to the Memphis and Shelby County Sports Authority with a term expiring  
January 21, 2027.

I have attached biographical information.

Sincerely,



Jim Strickland  
Mayor

JSS/sss

Cc: Council Members

**ORDINANCE NO. \_\_\_\_\_**  
**ORDINANCE TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT,**  
**PRESERVE THE MEMPHIS SAND AQUIFER, AND PROMOTE**  
**ENVIRONMENTAL JUSTICE**

WHEREAS, the City of Memphis relies on the groundwater of the Memphis Sand Aquifer for its drinking water supply. However, despite the importance of ensuring that Memphis' drinking water resources remain plentiful and uncontaminated, the existing system of federal, state, and local review for many development projects does not adequately consider risks to groundwater in many situations.

WHEREAS, the potential risks to groundwater resulting from improper siting and routing of underground toxic and hazardous materials infrastructure do not receive sufficient scrutiny at any level of government in Tennessee.

WHEREAS, recognizing the important and traditional role of city government in protecting the drinking water of its citizens, the Memphis City Council has determined a need to ensure increased oversight of structures that may impact the Memphis Sand Aquifer or Wellhead Protection Areas.

WHEREAS, acknowledging that patterns of racial, ethnic, and economic inequality in the United States have resulted in the inequitable geographic concentration of potential environmental hazards, the Memphis City Council has determined that this increased level of oversight must also ensure that new development in the City does not cause adverse impacts on the minority populations, low-income populations, and neighborhoods historically burdened by environmental pollution.

WHEREAS, the Federal Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.*, requires states to protect public water supplies, and pursuant to the Act the United States Environmental Protection Agency has authorized the Tennessee Department of Environment and Conservation to enforce the Act.

WHEREAS, the Tennessee Department of Environment and Conservation, pursuant to the Tennessee Safe Drinking Water Act of 1983, T.C.A. §§ 68-221-701 *et seq.*, promulgated regulations, including Tenn. Comp. R. & Regs. 0400-45-01-.34, and those state regulations identify the important role of local governments in protecting public drinking water, including through the enactment of ordinances to implement or support the wellhead protection plans developed by public water system operators.

WHEREAS, Memphis City Charter, Section 409, grants the City power to pass all laws to preserve the health of the City.

WHEREAS, Memphis City Charter, Section 405, grants the City power to regulate the keeping and storage of combustible articles.

WHEREAS, Memphis City Charter, Section 369, grants the City power over all affairs in the City in which the peace, safety, or general welfare of the inhabitants is interested.

WHEREAS, Memphis City Charter, Section 834, grants the City power to provide rules and regulations for the use, handling, storage and sale of inflammable liquids and the products thereof.

NOW THEREFORE, the Memphis City Council hereby adopts the following requirements designed to protect the Memphis Sand Aquifer, Wellhead Protection Areas, and the health and well-being of the people of Memphis.

### **I. Definitions**

For the purposes of this section:

1. **Committee:** Unless otherwise specified, the Memphis City Council Public Works Committee.
2. **Development:** Any man-made change defined as the construction of buildings or other structures, mining, dredging, paving, filling, grading or site clearing, and grubbing in amounts greater than ten cubic yards on any lot or excavation.
3. **Division:** Unless otherwise specified, the Division of Engineering of the City of Memphis.
4. **Groundwater:** Any waters of the State as defined in T.C.A. § 69-3-103 (Tennessee Water Quality Control Act), occurring below the surface of the ground not contained by artificial barriers.
5. **Toxic or hazardous materials or wastes:** Any substance which poses an actual or potential hazard to water supplies or human health if such a substance were discharged to land or waters of Memphis. Such materials include nuclear or radioactive materials or wastes, crude oil and petroleum products, and any hazardous substance or hazardous waste as listed within:
  - a. Superfund Amendments and Reauthorization Act (SARA) of 1986, Section 302, Extremely Hazardous Substances List (40 CFR 300, App. A and B);
  - b. Comprehensive Environmental Response Compensation and Liability Act Superfund (CERCLA) of 1980, Hazardous Substances List (40 CFR 302, Table 302.4);
  - c. SARA of 1986, Section 313, Toxic Chemicals List (40 CFR 372.45); and

- d. Resource Conservation and Recovery Act (RCRA) of 1976 and 1984 Amendments, Hazardous Wastes List (P and U Categories) (40 CFR 261.33 (e) and (f)).

6. **Wellhead Protection Area:** The surface and subsurface area surrounding a water well, well field or spring supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well, wellfield or spring. The Wellhead Protection Area contains both the Wellhead Protection Zone (Zone 1) and the Wellhead Management Zone (Zone 2), as described in Tenn. Comp. R. & Regs. 0400-45-01-.34.

## **II. Prohibited Development**

1. Absent express approval by the Committee, new developments with the following uses are prohibited throughout the City of Memphis:
  - a. underground hazardous or toxic materials storage tanks, unless contained within basements; and
  - b. underground hazardous liquid transportation or transmission infrastructure, such as pipelines for petroleum products and crude oil.
2. This prohibition will not apply to private or public wastewater, septage, or sewerage tanks or infrastructure.

## **III. Consideration of Exemptions to Prohibited Uses**

1. Any person seeking Committee approval to develop for a prohibited use within the City of Memphis, shall first submit to the Division an application for approval with a Groundwater Impact Statement. The Groundwater Impact Statement shall include:
  - a. a description of the planned development, including a description of the type and volume of toxic or hazardous material to be stored or transported;
  - b. documentation of all other required local, state, and federal permits necessary for the development;
  - c. a site plan that shows:
    - i. the area of the development that is in the City of Memphis;
    - ii. the location of the boundaries of the Wellhead Protection Area and all existing public water supply wells in relation to the project, within 1,000 feet of the project boundary; and
    - iii. the location of all known existing private water supply wells within 1,000 feet of the project boundary;
  - d. an analysis of the potential for the development to cause disproportionate adverse impacts on minority populations, low-income

- populations, and neighborhoods historically burdened by environmental pollution;
- e. an analysis of any potential adverse environmental or groundwater impacts resulting from the development; and
  - f. any other additional information as may be requested by the Division regarding the proposed development, its potential impacts on groundwater or the public interest, hydrogeologic information, monitoring and mitigation measures.
2. After receiving any such application, the Division shall ensure that the application is complete, and request further information from the applicant is required. The Division shall also seek comments on the application and Groundwater Impact Statement from the following:
    - a. Memphis Light, Gas & Water;
    - b. Memphis and Shelby County Land Use and Development Services; and
    - c. The Shelby County Groundwater Quality Control Board.
  3. The Division shall solicit and collect public comments regarding the application. The Division shall:
    - a. give public notice of the application, which must include access to the applicant's Groundwater Impact Statement and a means for the public to submit comments to the Division; and
    - b. accept public comments for at least 30 days from the public notice of the application.
  4. The Division shall then submit the application, Groundwater Impact Statement, comments from local agencies, and public comments to the Committee for review.
  5. The Committee shall hold a public hearing on the application, allowing a presentation by the applicant and comments from members of the public. At least 30 days prior to holding the public hearing, the Committee must give notice to the applicant and members of the public regarding the time and date of the hearing, as well as providing access to the application and Groundwater Impact Statement.
  6. Within 45 days of conducting the public hearing, the Committee shall decide whether or not to approve the application. The Committee shall only approve the application if it determines, after full consideration of the Groundwater Impact Statement all comments received, and any additional information that the Committee may, in its discretion, request from the applicant, that approving the application would be in the public interest, which shall include a determination that:

- a. the development will not go through any Wellhead Protection Area, as delineated in the most recent Wellhead Protection Plan finalized by Memphis Light, Gas & Water;
  - b. Memphis Light, Gas & Water has no objections to the development;
  - c. there will be no potential adverse environmental or groundwater impacts resulting from the proposed development, or any future land uses associated with the development; and
  - d. there will be no disproportionate impacts on minority populations, low-income populations, or neighborhoods historically burdened by environmental pollution.
7. Within 14 days of approving or rejecting the application, the Committee shall send notice of the decision to the applicant, and provide notice of the decision to the public.
8. The applicant, or any person who submitted comments to the Division or attended the public hearing, may petition the Memphis City Council for review of the Committee's decision within 30 days of the Committee providing public notice of the decision. The Council shall review the application to determine whether the project is in the public interest, according to the criteria described in this section.

#### **IV. Existing Development**

1. Development that would be prohibited without a special exemption, which has completed construction and is in operation at the time this ordinance is adopted, may continue operation without applying for an exemption.
2. The owner or operator of the development must apply for an exemption under the provisions of this ordinance prior to initiating any addition, expansion, or construction activities, and before any significant change in operations.

#### **V. Compliance with Other Authority**

All activities and development being considered by the Committee under this ordinance shall comply with these and all other relevant local ordinances and regulations, as well as all relevant state and federal laws and regulations. Any approval of an application for exemption by the Committee shall not be taken as a finding of public purpose or use in the context of any eminent domain proceedings, and conveys no additional rights or privileges to applicant. To the extent that this ordinance explicitly conflicts with any other local, state, or federal regulation, the more restrictive will apply.

## **VI. Savings Clause**

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the ordinance as a whole or any other part thereof.





## City Council Item Routing Sheet

Division Executive Committee Public Safety Hearing Date 4/6/21

District ALL Super District \_\_\_\_\_

☐ Ordinance

☒ Resolution

☐ Grant Acceptance

☒ Budget Amendment

☐ Commendation

☐ Other:

**Item Description :**

Set up and fund new service center for Group Violence Intervention Program (GVIP)

**Recommended Council Action:**

Approve the Resolution

**Status of MWBE planned expenditures funding, if applicable:**

N/A

Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken:

City Council approved the GVIP program concept in February 2021

**Does this item require city expenditure? No**

\$ Amount \$1M

\$ Revenue to be received \_\_\_\_\_

**Source and Amount of Funds**

\$ Operating Budget 1,000,000

\$ CIP Project # \_\_\_\_\_

\$ Federal/State/Other \_\_\_\_\_

**Approvals**

Director \_\_\_\_\_ Date \_\_\_\_\_

Budget Manager \_\_\_\_\_ Date \_\_\_\_\_

Chief Financial Officer \_\_\_\_\_ Date \_\_\_\_\_

Deputy Financial Officer \_\_\_\_\_ Date \_\_\_\_\_

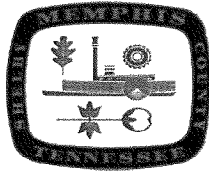
Chief Legal Officer \_\_\_\_\_ Date \_\_\_\_\_

**Chief Administrative Officer**

\_\_\_\_\_ Date \_\_\_\_\_

**Council Committee Chair**

\_\_\_\_\_ Date \_\_\_\_\_



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

Establish and fund new service center for the Group Violence Intervention Program (GVIP)

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

Executive/Mayor

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

Council passed a resolution approving the program and concept in Feb 2021

**4. State whether this will impact specific council districts or super districts.**

ALL

**5. State whether this requires a new contract, or amends an existing contract, if applicable.**

New contracts with nonprofit service providers and program staff will be required

**6. State whether this requires an expenditure of funds/requires a budget amendment**

Requires amendment to the FY21 operating budget to create and fund a new service center

**7. If applicable, please list the MWBE goal and any additional information needed**

No contracts have been entered yet but we will track and report MWBE spend, though most contracts will be with 501c3s



**A RESOLUTION TO ALLOCATE FUNDING TO THE  
GROUP VIOLENCE INTERVENTION PROGRAM (GVIP) SERVICE CENTER**

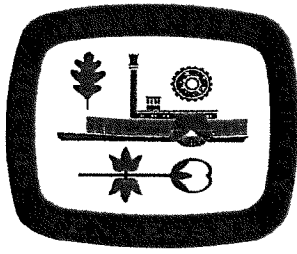
**WHEREAS**, the City of Memphis is committed to the safety, health, and welfare of all its residents and visitors; and

**WHEREAS**, on February 2, 2021 the Memphis City Council approved a resolution establishing a new Group Violence Intervention Program (GVIP) that will employ the public health approach to reducing violent crime with the aim of changing individual behaviors and changing our collective norms through five focused program areas:

1. Suppression – through reimagined policing practices and focused deterrence.
2. Intervention and Outreach – in the streets, in the schools and in our hospitals, interrupting violence and connecting those most at risk to services they need.
3. Prevention – promoting jobs, learning, and opportunities with an emphasis on building skills our young people need to be productive.
4. Community Mobilization - galvanizing our community against this violence epidemic by bringing young people, neighborhood residents, community organizations, and law enforcement together to address the underlying causes of the violence.
5. Organizational Change - Transforming policies, coordinating practices, and advocating for changes necessary to reduce youth gun violence; and

**WHEREAS**, an operating budget and complement of two (2) full-time appointed roles are needed to launch GVIP; and

**NOW, THEREFORE, BE IT RESOLVED** that the FY21 Operating Budget is hereby amended to establish the Group Violence Intervention Program Service Center at a funded amount of \$1,000,000 allocated from excess sale's tax revenues, to include a complement of two (2) full-time appointed roles in the Executive Division.



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This is a Resolution requesting an amendment to the Fiscal Year 2021 General Fund Operating Budget for the Information Technology Division — *all Districts*

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

Finance Division

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

This item requires an amendment to the current funding budget for the City.

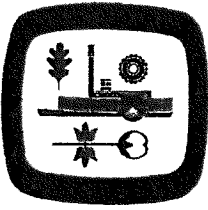
**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This item does not require a new contract or amend an existing contract.

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

This item requires an expenditure of funds and will require an amendment to the Fiscal Year 2021 General Fund Operating Budget.

*6. MWBE Requirements — N/A*



## **Resolution Amending the General Fund Operating Budget for Information Technology Division Expenditures**

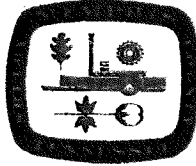
**WHEREAS**, on June 2, 2020, the Council approved Budget Ordinance 5749 which included budgeted revenues and expenditures for the General Fund for the 2021 Fiscal Year; and

**WHEREAS**, such funding included specific expenditures for the Information Technology Division related to the cost of Tennessee taxes for services provided to Tennessee State and Local Government customers in the form of monthly Federal Regulatory Surcharges from service provider carriers; and

**WHEREAS**, based on carrier notifications provided during third quarter operations, circumstances now exist that require a request to amend the existing budget in order to accommodate the increase in surcharge billings from carriers Verizon Wireless and AT&T; and

**WHEREAS**, it is necessary to amend the Fiscal Year 2021 (FY21) General Fund budget to add appropriations to match program spending that is projected different than the FY21 adopted budget plan;

**NOW, THEREFORE BE IT RESOLVED**, by the Council of the City of Memphis that the Fiscal Year 2021 General Fund Operating Budget be amended in accordance with Tennessee Constitution Article 2 § 24, TCA § 9-1-116, Municipal Budget Law of 1982 in the amount of \$1,000,000 for the Information Technology Division specific to the general ledger line item for outside phone communications, and funding for the amended expenditure budget will be provided from sales tax revenues performing above budget.



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

Resolution authorizing a borrowing by the City from EDGE, requesting EDGE to issue revenue bonds of not-to-exceed seventy-five million (\$75,000,000) aggregate principal amount to fund a portion of the Liberty Park Project

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

The Finance Division is the initiating party of this resolution.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

There is not a change to an existing ordinance or resolution.

**4. State whether this will impact specific council districts or super districts.**

District 4, Superdistrict 8

**5. State whether this requires a new contract, or amends an existing contract, if applicable.**

This does not require a new contract nor does it amend an existing contract.

**6. State whether this requires an expenditure of funds/requires a budget amendment**

The resolution does not require an expenditure of funds.

**7. If applicable, please list the MWBE goal and any additional information needed**

3 primary contracts: Turner Construction (Goal 38% MBE, 5% WBE), BRG3S Architects (certified WBE & pledged 29% MBEs), Fairgrounds Partners (program mgmt; joint venture of Vieste & Allworld; 48% MBE value)

## RESOLUTION

**RESOLUTION OF THE COUNCIL OF THE CITY OF MEMPHIS, TENNESSEE, AUTHORIZING A BORROWING BY THE CITY OF MEMPHIS, TENNESSEE FROM THE ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE ("EDGE"), REQUESTING EDGE TO ISSUE REVENUE BONDS OF NOT TO EXCEED SEVENTY-FIVE MILLION DOLLARS (\$75,000,000) AGGREGATE PRINCIPAL AMOUNT OF BONDS (FEDERALLY TAXABLE) TO FUND A PORTION OF THE LIBERTY PARK PROJECT; AND AUTHORIZING ALL NECESSARY ACTIONS AND OTHERWISE PROVIDING WITH RESPECT TO THE FOREGOING.**

**WHEREAS**, the City of Memphis, Tennessee (the "**City**") has approved a new phase of redevelopment at the Memphis Fairgrounds, now known as Liberty Park, consisting of a series of subprojects, with the three primary subprojects, scheduled to begin in May 2022, being the construction of the Memphis Sports and Events Center, improvements to public rights-of-way and creation of new outdoor public gathering spots, and the City's preparation of an 18-acre portion of the site to enable its transformation by private developers into a mixed-use development focused on hospitality, retail, entertainment, and market-rate housing (the "**Liberty Park Project**"); and

**WHEREAS**, it is proposed that the Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee ("**EDGE**") issue its revenue bonds (the "**Series 2021 Bonds**") and loan the proceeds thereof (the "**2021 Loan**") to the City pursuant to a Loan Agreement (as hereinafter defined) (i) to finance a portion of the Liberty Park Project and (ii) to the extent permitted to pay certain costs of issuance and to fund a capitalized interest fund, a debt service reserve fund, surplus fund and an escrow fund, if necessary; and

**WHEREAS**, it is proposed that the 2021 Loan shall be repayable from (i) Tourism Development Zone revenues (the "**TDZ Revenues**") made available by the State of Tennessee (the "**State**") pursuant to The Convention Center and Tourism Development Financing Act of 1998, codified at Tennessee Code Annotated Title 7, Chapter 88, Sections 7-88-101 et seq., as heretofore or hereafter amended (the "**Tourist Development Financing Act**"), and (ii) in addition, in whole or in part from all legally available revenues of the City, other than TDZ Revenues or ad valorem property tax revenues, which may be applied to payments required to be made by the City under said Loan Agreement (the "**Non-Property Tax Revenues**"); and

**WHEREAS**, the City desires to (i) request EDGE to issue the Series 2021 Bonds, (ii) authorize the City to borrow from EDGE to finance a portion of the Liberty Park Project, (iii) reimburse the City for certain expenses advanced in connection with the Liberty Park Project, (iv) fund a capitalized interest fund, a debt service reserve fund, surplus fund and an escrow fund, if necessary, (v) pay certain expenses incurred in connection with the issuance of the Series 2021 Bonds and (vi) otherwise provide with respect to the foregoing; and

**WHEREAS**, the entry of the City into the Loan Agreement for the purposes described herein and therein complies with the provisions of the debt management policy of the City.

**NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis, Tennessee (the "Council") as follows:**

1. EDGE is hereby requested to issue, sell and deliver, at one time or from time to time, the Series 2021 Bonds in an aggregate principal amount not-to-exceed Seventy-Five Million Dollars \$75,000,000, and loan the proceeds of the Series 2021 Bonds to the City pursuant to a loan agreement, by and between EDGE and the City (the "**Loan Agreement**"), to (i) finance a portion of the Liberty Park Project; (ii) reimburse the City for certain expenses advanced in connection with the Liberty Park Project, (iii) pay certain expenses incurred in connection with the issuance of the Series 2021 Bonds; (iv) fund a capitalized interest fund, a debt service reserve fund, surplus fund and an escrow fund, if necessary, and (v) otherwise provide with respect to the foregoing; and

2. The Mayor is authorized to execute and deliver the Loan Agreement in one or more loan agreements between the City and EDGE in substantially the form of the Loan Agreement heretofore presented to this Council, with such changes as shall be approved by the Mayor upon consultation with counsel, execution to be conclusive evidence of such consultation and approval.

3. The Trust Indenture between EDGE and Regions Bank, as bond trustee, pursuant to which EDGE will issue the Series 2021 Bonds (the "**Trust Indenture**"), and the First Supplemental Trust Indenture (the "**First Supplemental Trust Indenture**") pursuant to which EDGE will authorize and provide for all matters with respect to the Series 2021 Bonds, each is hereby approved in substantially the form thereof heretofore presented to this Council, with such changes as shall be approved by the parties thereto.

4. The Mayor is hereby authorized to execute, approve, or agree to and deliver one or more Bond Purchase Agreements between EDGE and Raymond James & Associates, Inc., as sole or lead managing underwriter and any other underwriters selected by the Chief Financial Officer (individually and collectively, the "**Underwriters**"), pursuant to which EDGE will agree to sell the Series 2021 Bonds to the Underwriters and the Underwriters will agree to purchase the Series 2021 Bonds (individually or collectively, the "**Bond Purchase Agreement**"), in substantially the form thereof heretofore presented to this Council, with such changes as shall be approved by the Mayor upon consultation with counsel, the execution to be conclusive evidence of such consultation and approval.

5. A Preliminary Official Statement is hereby authorized to be distributed in connection with the offering of the Series 2021 Bonds (the "**Preliminary Official Statement**"), in substantially the form thereof heretofore presented to this Council, with such changes as shall be approved by the Mayor, Chief Financial Officer or Comptroller, or any of them or their designees (individually or collectively, "**Authorized Officers**") upon consultation with counsel, its distribution to be conclusive evidence of such approval and consultation, and the Authorized Officers are authorized to deem the Preliminary Official Statement to be "final" (except for permitted omissions) for purposes of Rule 15c2-12 of the Securities and Exchange Commission ("**Rule 15c2-12**").

6. The Mayor is hereby authorized to execute and deliver a final Official Statement (the "**Final Official Statement**") in connection with the sale and issuance of the Series 2021 Bonds, in substantially the form of the Preliminary Official Statement, as the same has been completed by the insertion of the maturities, interest rates, and other details of the Series 2021 Bonds and by making



such other insertions, changes or corrections as shall be approved by the Mayor upon consultation with counsel, its execution to be conclusive evidence of such approval and consultation.

7. The Mayor is hereby authorized to execute and deliver a Continuing Disclosure Agreement between the City and Digital Assurance Certification LLC, as the City's dissemination agent (the "**Continuing Disclosure Agreement**"), to assist the Underwriters in complying with Rule 15c2-12, in substantially the form described in the Preliminary Official Statement, with such changes as shall be approved by the Mayor upon consultation with counsel, its execution to be conclusive evidence of such approval and consultation.

8. The Chief Financial Officer and Comptroller are authorized to execute and deliver any agreement authorized by this resolution to be executed by the Mayor. The Chief Financial Officer is also authorized to amend the budget of the Debt Service Fund to account for any costs incurred in connection with the delivery and execution of the Loan Agreement.

9. All actions heretofore undertaken by the Authorized Officers and other officials, employees, attorneys and agents of the City in furtherance of the intent of this resolution, and of the documents authorized by this resolution, are hereby ratified, confirmed and approved.

10. Prior application to the State for any approval that may be required for the receipt and use of TDZ Revenues as contemplated by, or by the documents authorized by, this resolution is hereby authorized, ratified, confirmed and approved.

11. The Authorized Officers and other appropriate officials of the City are hereby authorized to enter into such agreements, and they and other appropriate employees of the City are hereby authorized to execute such certificates or other documents and take such other actions, as may be necessary or appropriate to carry out the intent of this resolution.

12. This resolution shall become effective upon its adoption.

DRAFT 03.15.2021

LOAN AGREEMENT

BY AND BETWEEN

THE CITY OF MEMPHIS, TENNESSEE

AND

ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT  
BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE

REVENUE BONDS (LIBERTY PARK PROJECT), SERIES 2021  
(FEDERALLY TAXABLE)

DATED AS OF [\_\_\_\_], 2021

The rights of the Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee, hereunder have been assigned to Regions Bank, as Bond Trustee, under a Trust Indenture dated as of [\_\_\_\_], 2021, from the Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee, except to the extent such rights constitute Unassigned Rights as defined herein.

Table of Contents

ARTICLE I

DEFINITIONS

ARTICLE II

REPRESENTATIONS

Section 2.1.	Representations by the Issuer .....	2
Section 2.2.	Representations and Warranties by the Borrower .....	3

ARTICLE III

THE PROJECT

Section 3.1.	Completion of the Project.....	4
--------------	--------------------------------	---

ARTICLE IV

CONSTRUCTION FUND; INVESTMENT OF FUNDS

Section 4.1.	Operation of the Construction Fund. ....	4
Section 4.2.	Investment of Funds .....	4

ARTICLE V

ISSUANCE OF THE BONDS

Section 5.1.	Proceeds of the Series 2021 Bonds; Security Interest in Funds .....	4
Section 5.2.	Payment of the Bonds; Assignment of Loan Agreement .....	5
Section 5.3.	Right of Bond Trustee to Enforce Loan Agreement.....	5

ARTICLE VI

PAYMENTS HEREUNDER; FUND DEPOSITS;  
PREPAYMENTS AND OTHER PAYMENTS

Section 6.1.	Payment of Principal, Premium, if any, and Interest.....	5
Section 6.2.	Payment of TDZ Revenues.....	5
Section 6.3.	Payment of Non-Property Tax Revenues .....	5
Section 6.4.	Credits toward Obligations .....	6
Section 6.5.	Prepayment Generally .....	7
Section 6.6.	Notice of Prepayment .....	7

Section 6.7.	Effect of Partial Prepayment.....	8
Section 6.8.	Principal Schedules.....	8
Section 6.9.	Additional Payments.....	8

## ARTICLE VII

### COVENANTS OF THE BORROWER

Section 7.1.	Maintenance of Corporate Existence and Status .....	8
Section 7.2.	Consent to Assignment of Rights to the Bond Trustee .....	9
Section 7.3.	Maintenance; Recording.....	9
Section 7.4.	Protection of TDZ Revenues .....	9
Section 7.5.	Books and Records .....	9
Section 7.6.	Indemnity .....	10
Section 7.7.	Discharge of Orders, Etc. ....	11
Section 7.8.	Tax Exemption. ....	11
Section 7.9.	Appropriations.....	12

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

Section 8.1.	Events of Default .....	12
Section 8.2.	Remedies Upon Default.....	13
Section 8.3.	Remedies Cumulative.....	14
Section 8.4.	Delay or Omission Not a Waiver .....	14
Section 8.5.	Waiver of Extension, Appraisement, Stay, Laws.....	14
Section 8.6.	Remedies Subject to Provisions of Law .....	15

## ARTICLE IX

### SUPPLEMENTS AND AMENDMENTS TO THIS LOAN AGREEMENT

Section 9.1.	Supplements and Amendments to this Loan Agreement.....	15
--------------	--	----

## ARTICLE X

### DEFEASANCE

Section 10.1.	Defeasance.....	15
---------------	-----------------	----

## ARTICLE XI

### MISCELLANEOUS PROVISIONS

Section 11.1. Payment of Expenses of Issuance of Bonds .....	16
Section 11.2. Loan Agreement for Benefit of Parties Hereto.....	16
Section 11.3. Severability .....	16
Section 11.4. Notices .....	16
Section 11.5. Successors and Assigns .....	17
Section 11.6. Counterparts.....	17
Section 11.7. Immunity of Officers, Employees and Members of the Issuer and the Borrower.	17
Section 11.8. Governing Law .....	18

This is a **LOAN AGREEMENT** dated as of [\_\_\_\_], 2021 (herein referred to sometimes as this "**Loan Agreement**"), by and between the **CITY OF MEMPHIS, TENNESSEE**, a Tennessee municipal corporation (the "**Borrower**"), and the **ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE** (the "**Issuer**"), a public nonprofit corporation created and existing under and by virtue of Sections 7-53-101 *et seq.*, Tennessee Code Annotated, as amended (the "**Act**").

#### **PRELIMINARY STATEMENT**

The Issuer and Regions Bank, as bond trustee (the "**Bond Trustee**"), have entered into a Trust Indenture (as the same may from time to time be supplemented, amended and restated, the "**Trust Indenture**") dated as of [\_\_\_\_], 2021, authorizing and providing for the issuance of Bonds to (i) pay Costs of the Project, including interest on Bonds during construction of any Project and for two (2) years after the estimated date of completion of such Project, (ii) pay certain expenses incurred in connection with the issuance of Bonds, (iii) fund any debt service reserves, and (iv) pay or provide for the payment of Outstanding Bonds or any portion of any thereof, all as permitted under the Act (collectively, "**Financing Purposes**").

The Borrower desires to obtain the proceeds of the Bonds, which will be loaned to the Borrower hereunder for Financing Purposes.

Pursuant to the Act, the Issuer desires to obtain funds for such loan to the Borrower by the issuance and sale of its Revenue Bonds (Liberty Park Project), Series 2021 (Federally Taxable) (collectively, the "**Series 2021 Bonds**"), and additional Bonds, all of which will be issued under and secured by the Trust Indenture. Pursuant to the Trust Indenture, the Issuer will pledge and assign its rights under this Loan Agreement (except for the right of the Issuer to receive payment of its fees and expenses, the Issuer's right to indemnification under this Loan Agreement, the Issuer's right to approve, execute and deliver supplements, amendments and restatements to this Loan Agreement, the Issuer's right to grant consents under this Loan Agreement, and the rights provided the Issuer in Section 11.7 hereof, herein referred to collectively as the "**Unassigned Rights**"), as security for Bonds issued under the Trust Indenture. Also pursuant to the Trust Indenture, an amount equal to the principal of, premium, if any, and interest on the Bonds will be payable to the Bond Trustee, solely out of (i) the payments to be made by the Borrower under this Loan Agreement (except for Unassigned Rights) and (ii) money on deposit in certain funds held under the Trust Indenture (collectively, the "**Funds**").

In consideration of the premises, the respective representations and agreements contained herein, the acceptance of this Loan Agreement by the Issuer to evidence said loan to the Borrower and for other good and valuable consideration, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, and interest payable under this Loan Agreement and the performance of all the covenants of the Borrower contained herein, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS

Unless the context requires otherwise, the capitalized terms used and not otherwise defined in this Loan Agreement shall have the same meanings as set forth in the Trust Indenture.

All accounting terms not otherwise defined in the Trust Indenture or herein shall have the meanings assigned to them in accordance with generally accepted accounting principles.

All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Loan Agreement as a whole and not to any particular Article, Section or other subdivision unless the context indicates otherwise.

## ARTICLE II

### REPRESENTATIONS

Section 2.1. *Representations by the Issuer.* The Issuer represents and warrants that:

(a) The Issuer is a public nonprofit corporation validly created and existing under the Act, is authorized to enter into the transactions contemplated by this Loan Agreement and to carry out its obligations hereunder, has been duly authorized to execute and deliver this Loan Agreement and agrees that it will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

(b) The issuance and sale of the Series 2021 Bonds, the loan of the proceeds of Series 2021 Bonds to the Borrower to provide a portion of the money required for the Financing Purposes, the approval, execution and delivery of this Loan Agreement and the Trust Indenture, the performance of all covenants and agreements of the Issuer contained in this Loan Agreement and the Trust Indenture, and of all other acts and things required under the Constitution and laws of Tennessee to make this Loan Agreement a valid and binding obligation enforceable against the Issuer in accordance with its terms, are authorized by the Act and have been duly authorized by proceedings of the Issuer adopted at meetings thereof which were duly called and held.

(c) To provide funds to loan to the Borrower for Financing Purposes, the Issuer has authorized the Series 2021 Bonds and the Issuer may in the future authorize additional Bonds, to be issued upon the terms set forth in the Trust Indenture, under the provisions of which Trust Indenture the Issuer's interest in this Loan Agreement and the payments of principal, interest and other revenues hereunder (other than Unassigned Rights) are pledged and assigned to the Bond Trustee as security for the payment of the principal of, premium, if any, and interest on the Bonds.

(d) The execution and delivery of this Loan Agreement, the consummation of the transactions contemplated hereby and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate restriction or of any agreement or instrument to which the Issuer is now a party and do not and

will not constitute a default under any of the foregoing. Furthermore, the recitals of fact and statements contained in this Loan Agreement with respect to the Issuer are true.

(e) No litigation, proceeding or investigation is pending or, to the knowledge of the Issuer, threatened against the Issuer seeking to restrain, enjoin or in any way limit the approval, issuance or delivery of the Bonds or this Loan Agreement by the Issuer or which would in any manner challenge or adversely affect the corporate existence or powers of the Issuer to enter into or carry out the transactions described in or contemplated by, the execution, delivery or validity of or the performance by the Issuer of the terms and provisions of, this Loan Agreement or the Trust Indenture.

Section 2.2. *Representations and Warranties by the Borrower.* The Borrower makes the following representations and warranties as the basis for its covenants herein:

(a) The Borrower is duly authorized and has full power under the laws of Tennessee and all other applicable provisions of law and its charter and bylaws to create, issue, enter into, execute and deliver, as the case may be, this Loan Agreement; all action on its part necessary for the valid execution and delivery of this Loan Agreement has been duly and effectively taken; and this Loan Agreement, in the hands of the holder hereof, will be the legal and valid obligation of the Borrower.

(b) The execution and delivery of this Loan Agreement, the consummation of the transactions contemplated hereby and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate restriction or of any agreement or instrument to which the Borrower is now a party and do not and will not constitute a default under any of the foregoing. Furthermore, the recitals of fact and statements contained in this Loan Agreement with respect to the Borrower are true.

(c) Except as may be specifically described in the Official Statement dated [\_\_\_\_], 2021, relating to the Series 2021 Bonds (as the same may be supplemented or amended, the “**Series 2021 Bonds Official Statement**”), no litigation, proceeding or investigation is pending or, to the knowledge of the Borrower, threatened against the Borrower seeking to restrain, enjoin or in any way limit the approval, issuance or delivery of (i) the Series 2021 Bonds Official Statement, (ii) the Series 2021 Bonds or additional Bonds by the Issuer, or (iii) this Loan Agreement by the Borrower, or which would in any manner challenge or adversely affect the corporate existence or powers of the Borrower to enter into or carry out the transactions described in or contemplated by, the execution, delivery or validity of or the performance by the Borrower of the terms and provisions of, this Loan Agreement. In addition, except as otherwise may be described in the Series 2021 Bonds Official Statement, no litigation, proceedings or investigations are pending or, to the knowledge of the Borrower, threatened against it except litigation, proceedings or investigations involving claims for which the probable ultimate recoveries and the estimated costs and expenses of defense, in the opinion of the Borrower (i) will be entirely within its applicable insurance policy coverage limits, subject to applicable deductibles or (ii) will not have a material adverse effect on the operations or condition, financial or otherwise, of the Borrower, taken as a whole.

(d) This Loan Agreement and any other written statement furnished by the Borrower to the Issuer do not contain any untrue statement of a material fact or omit to state a material fact



necessary to make the statements contained therein or herein not misleading. There is no fact which the Borrower has not disclosed to the Issuer which materially adversely affects or, so far as the Borrower can now foresee, will materially adversely affect the financial condition of the Borrower, its ability to own, operate and lease its facilities or its ability to make the payments under this Loan Agreement when and as the same become due and payable.

(e) The Borrower represents and warrants that the proceeds of the Series 2021 Bonds and of any additional Bonds will be used solely for Financing Purposes, which is deemed pursuant to Section 7-88-113, Tennessee Code Annotated, to be a "project" as defined in Section 7-53-101 of the Act, all for use in connection with its governmental purposes.

### **ARTICLE III**

#### **THE PROJECT**

Section 3.1. *Completion of the Project.* The Borrower agrees to use reasonable efforts to cause the Project to be constructed, renovated, rehabilitated, remodeled, furnished and equipped and completed with reasonable dispatch.

### **ARTICLE IV**

#### **CONSTRUCTION FUND; INVESTMENT OF FUNDS**

Section 4.1. *Operation of the Construction Fund.*

(a) *Disbursements from the Construction Fund.* The Borrower agrees that money on deposit in the Construction Fund shall be disbursed by the Bond Trustee only in accordance with or as permitted by the provisions of Section 302 of the Trust Indenture.

(b) *Disposition of Surplus Construction Fund Money.* The Borrower agrees that if after payment by the Bond Trustee of amounts requested pursuant to Written Requests theretofore tendered under the provisions of Section 302(b) of the Trust Indenture there shall remain any money in the Construction Fund, such money may be withdrawn and shall be used or deposited as provided in Section 302(d) of the Trust Indenture.

Section 4.2. *Investment of Funds.* The Borrower agrees that money at any time on deposit in any Fund created under the Trust Indenture shall at all times be invested or reinvested by the Bond Trustee in Permitted Investments in the manner and to the extent provided in the Trust Indenture and that the Borrower will take all actions necessary, including without limitation providing the Bond Trustee with all necessary directions, to assure that such money is invested in accordance with the provisions of the Trust Indenture.

### **ARTICLE V**

#### **ISSUANCE OF THE BONDS**

Section 5.1. *Proceeds of the Series 2021 Bonds; Security Interest in Funds.* The Borrower agrees that the proceeds of the Series 2021 Bonds being loaned to the Borrower under this Loan Agreement shall be deposited with the Bond Trustee and applied as provided in the

Trust Indenture. The Borrower hereby assigns to the Issuer, and grants a security interest to the Issuer in, all right, title and interest of the Borrower in any funds held by the Bond Trustee pursuant to the Trust Indenture, except as otherwise provided in the Trust Indenture.

Section 5.2. *Payment of the Bonds; Assignment of Loan Agreement.* The Borrower agrees that the principal of, premium, if any, and interest on the Outstanding Series 2021 Bonds shall be made payable in accordance with the provisions of the Trust Indenture and this Loan Agreement and that this Loan Agreement and payments to be made hereunder (excluding Unassigned Rights) shall be assigned and pledged to the Bond Trustee to secure the payment of the Series 2021 Bonds.

Section 5.3. *Right of Bond Trustee to Enforce Loan Agreement.* The Borrower agrees that this Loan Agreement and the Trust Indenture, and all of the rights, interests, powers, privileges and benefits accruing to or vested in the Issuer hereunder and under the Trust Indenture, may be protected and enforced in conformity with the Trust Indenture and (excluding Unassigned Rights) may be thereby assigned by the Issuer to the Bond Trustee as additional security for the Bonds and may be exercised, protected and enforced for or on behalf of the Bondholders in conformity with the provisions of this Loan Agreement and the Trust Indenture.

## ARTICLE VI

### **PAYMENTS HEREUNDER; FUND DEPOSITS; PREPAYMENTS AND OTHER PAYMENTS**

Section 6.1. *Payment of Principal, Premium, if any, and Interest.* The Borrower will duly and punctually pay the principal of, premium, if any, and interest payable under this Loan Agreement, and any other payment pledged under the Trust Indenture at the dates and the places, in the manner mentioned in and subject to the limitations set forth in this Loan Agreement or in any additional instrument pledged under the Trust Indenture, according to the true intent and meaning hereof and thereof. Notwithstanding any schedule of payments under this Loan Agreement or any other instrument pledged under this Loan Agreement or the Trust Indenture, the Borrower agrees to make payments hereunder and thereunder and to be liable therefor at such times and in such amounts (including principal, premium, if any and interest) so as to provide for payment of the principal of, premium, if any, and interest on the Bonds from time to time Outstanding under the Trust Indenture when due, whether upon a scheduled interest payment date, at maturity or by mandatory Sinking Fund Redemption.

Section 6.2. *Payment of TDZ Revenues.* To provide for payments and prepayments under this Loan Agreement, the Borrower covenants and agrees to pay to the Bond Trustee, as soon as practicable upon receipt thereof, all TDZ Revenues received by the Borrower for deposit and/or payment by the Bond Trustee in accordance with and as prescribed by the Trust Indenture.

Section 6.3. *Payment of Non-Property Tax Revenues.* In accordance with Section 403(f) of the Trust Indenture, if on the fifth (5<sup>th</sup>) Business Day immediately prior to either the date on which the principal of Outstanding Bonds is payable, either at maturity or through mandatory Sinking Fund Redemption, or any Interest Payment Date, and after the transfers required by paragraph (d) and paragraph (e) of Section 403 of the Trust Indenture, there

is insufficient money in the Debt Service Fund to pay such principal or interest, the Borrower hereby covenants, upon demand by the Bond Trustee, to pay to the Bond Trustee Non-Property Tax Revenues in an amount equal to such deficiency no later than the Business Day immediately prior to the date on which the principal of or interest on Outstanding Bonds is payable, which amount upon receipt by the Bond Trustee shall be deposited in the Debt Service Fund. The Borrower also may make any such payment in advance of the time required by the foregoing provisions without the necessity of any demand therefor. Notwithstanding the foregoing, payments of Non-Property Tax Revenues by the Borrower pursuant to this Loan Agreement are subject to annual appropriation by the Borrower, and the provisions of this Section shall not preclude the Borrower from using Non-Property Tax Revenues for any other purpose, including the payment of other indebtedness of the Borrower. No assurance can be given that the Borrower's governing body will appropriate such funds.

**"Non -Property Tax Revenues"** means all legally available revenues of the Borrower, other than TDZ Revenues, which may be applied to the payments required by this Loan Agreement to be paid by the Borrower, and which shall not include ad valorem property tax revenues.

**"Qualified Public Use Facility"** means a "qualified public use facility" as defined in the Tourism Development Financing Act, consisting of [ ] and certain properties located in the [ ] adjacent to such [ ] (including "ancillary structures and facilities" and "qualified associated development," as each is defined in the Tourism Development Financing Act), and which hereafter may be amended to incorporate additional "qualified public use facilities" (including "ancillary structures and facilities" and "qualified associated development").

**"TDZ Revenues"** means a distribution of state and local sales and use taxes, authorized and allocated pursuant to the Tourism Development Financing Act, relating to sales made in the Liberty Park tourism development zone approved by the Borrower and the State, during a period which will begin during the Fiscal Year immediately following the Fiscal Year in which the Qualified Public Use Facility commenced operations as a "qualified public use facility" and which will continue for thirty (30) Fiscal Years after commencement of operations, unless earlier terminated or extended in accordance with the Tourism Development Financing Act.

**"Tourism Development Financing Act"** means the Convention Center and Tourism Development Financing Act of 1998, Tennessee Code Annotated, Title 7, Chapter 88, as heretofore and hereafter amended.

Section 6.4. *Credits toward Obligations.* Notwithstanding any provision contained in this Loan Agreement or in the Trust Indenture to the contrary, in addition to any credits toward payments under this Loan Agreement resulting from the payment or prepayment thereof from other sources, the Borrower shall receive credits for the following:

(a) *Interest and Principal.* Any money on deposit from funds provided by the Borrower under this Loan Agreement or otherwise (including from the TDZ Revenues paid to the Bond Trustee in accordance with the provisions of Section 6.2 hereof) deposited in the Debt Service Fund shall be credited against the obligations of the Borrower under Section 6.1 hereof to pay interest and principal under this Loan Agreement as the same become due in order to

provide for the payment of interest and principal on the Outstanding Bonds as the same become due.

(b) *Purchase of Bonds.* The principal amount of Bonds of any series and maturity purchased by the Borrower and delivered to the Bond Trustee for cancellation, or purchased by the Bond Trustee on behalf of the Borrower and cancelled, shall be credited against the obligation of the Borrower to pay under this Loan Agreement the principal (including through a mandatory Sinking Fund Redemption) in connection with the Bonds of the series and maturity so purchased. Such purchases may be made by the Borrower in such order as the Borrower shall elect prior to such purchase or, if no such election is made prior to such purchase, in the inverse order thereof; provided, however, that the purchase of a Bond of one series and maturity may not be credited against a payment under this Loan Agreement which would be used, in the normal course, for payment of the principal of another series or of another maturity of Bonds of the same series.

(c) *Surplus Fund Transfers.* The amount of any money transferred by the Bond Trustee from the Surplus Fund and deposited into the Debt Service Fund shall be credited against the obligation of the Borrower to pay interest or principal under this Loan Agreement as the same become due.

Section 6.5. *Prepayment Generally.* The Borrower shall be permitted to prepay its obligations under this Loan Agreement to the extent and in the manner permitted by the Trust Indenture and for the redemption of Bonds. In addition, if such prepayment is made in compliance with the terms of the Trust Indenture, the Issuer agrees to accept prepayment of payments payable under this Loan Agreement to the extent required to provide for a permitted purchase, prepayment or refunding of the Bonds. No other prepayment of payments payable under this Loan Agreement shall be permitted. Such prepayments shall be made by paying to the Bond Trustee an amount sufficient, together with income from any investments of funds permitted by the Trust Indenture for such purpose, to redeem (when redeemable) all or a part of the Bonds of the series and maturity designated by the Borrower at the redemption prices specified therefor in the Trust Indenture. Any prepayment pursuant to this Section shall include accrued interest and premium, if any, required for redemption of the Bonds to be redeemed by such prepayment. Notwithstanding any prepayment for a part of the Outstanding Bonds made pursuant to this Section, the Borrower is obligated to make payments payable under this Loan Agreement to the extent any portion of the Bonds remains Outstanding.

Section 6.6. *Notice of Prepayment.* The Borrower shall give the Issuer and the Bond Trustee a Written Request not less than 60 days (or such lesser period as may be acceptable to the Issuer and the Bond Trustee) prior to any optional prepayment made under this Loan Agreement. The notice from the Borrower shall designate the date of prepayment and the amount thereof and direct the redemption of Bonds of the series and maturity designated by the Borrower in the Written Request and in the amounts corresponding to the prepayment made under this Loan Agreement. Such notice may be withdrawn by the Borrower prior to delivery to the Bondholders by the Bond Trustee of notice of redemption pursuant to the Trust Indenture or in connection with the recession of any conditional notice of redemption pursuant to the Trust Indenture.

Section 6.7. *Effect of Partial Prepayment.* Upon any partial prepayment under this Loan Agreement, each installment of interest which shall thereafter be payable under this Loan Agreement shall be reduced, taking into account the interest rate or rates on the Bonds remaining Outstanding after the redemption of Bonds from the proceeds of such partial prepayment and after the purchase, delivery and cancellation of the Bonds described in Section 6.4(b) hereof, so that the interest remaining payable under this Loan Agreement shall be sufficient to pay the interest on such Outstanding Bonds when due.

Section 6.8. *Principal Schedules.* On the date of any partial prepayment under this Loan Agreement, the Borrower, upon consultation with the Bond Trustee, shall deliver to the Issuer an amortization schedule setting forth the amount of the principal installments to be paid under this Loan Agreement after the date of such partial prepayment and the unpaid principal balance remaining after payment of each such installment.

Section 6.9. *Additional Payments.* The Borrower agrees to pay the following items to the following persons as additional payments under this Loan Agreement:

(1) To the Bond Trustee when due, all fees including any disbursements, expenses or advances of the Bond Trustee for services rendered under the Trust Indenture and all fees and charges of any Paying Agents, registrars, counsel, accountants, consultants, engineers and other persons incurred in the performance of services under the Trust Indenture on request of the Bond Trustee for which the Bond Trustee and such other persons are entitled to payment or reimbursement;

(2) To the Issuer, upon demand, all fees and expenses incurred by the Issuer in relation to this Loan Agreement or the Bonds which are not otherwise required to be paid by the Borrower under the terms of this Loan Agreement, and all fees, expenses, taxes and assessments of the Issuer as provided for under the Act;

(3) To the Bond Trustee, the amount of all advances of funds made by the Bond Trustee under the provisions of the Trust Indenture with respect to the Trust Indenture or this Loan Agreement, with interest thereon at the Bond Trustee's announced prime rate per annum then in effect from the date of each such advance; and

(4) To the Bond Trustee to indemnify and save the Bond Trustee harmless from any and all loss, costs, liability and expense suffered or incurred by the Bond Trustee by reason of having returned any unclaimed money to the Borrower as provided by Section 1302 of the Indenture.

(5) To the Issuer at the requisite times the amounts, as computed by the Borrower, required by Section 148(f) of the Code to be paid to the United States Department of the Treasury in connection with-Tax Exempt Bonds.

## ARTICLE VII

### COVENANTS OF THE BORROWER

Section 7.1. *Maintenance of Corporate Existence and Status.* The Borrower covenants and agrees that, as long as any of the Bonds remains Outstanding, it will maintain its existence as

a municipal corporation organized under the laws of the State of Tennessee and that it will not take any action nor suffer any action to be taken by others which will alter, change or destroy such status unless the successor governing body, whether the Borrower or another entity, retains or assumes all of the obligations of the Borrower under this Loan Agreement, the Trust Indenture and the Bonds.

Section 7.2. *Consent to Assignment of Rights to the Bond Trustee.* The Borrower agrees that this Loan Agreement and all payments to be made hereunder (excluding Unassigned Rights) shall be assigned and pledged to secure the payment of the Bonds and all of the rights, interests, powers, privileges and benefits accruing to or vested in the Issuer thereunder may be protected and enforced in conformity with the Trust Indenture, and may be assigned by the Issuer to the Bond Trustee as additional security for the Bonds.

Section 7.3. *Maintenance; Recording.* The Borrower, at its own expense, will take all necessary action to maintain and preserve this Loan Agreement, the Bonds and the Trust Indenture so long as any portion of the indebtedness or other financial obligation under this Loan Agreement remains unpaid. The Borrower will, forthwith after the execution and delivery of this Loan Agreement and thereafter from time to time, cause this Loan Agreement, the Bonds, the Trust Indenture, all documents securing this Loan Agreement, any other document securing any obligation pledged under the Trust Indenture (including any amendments and supplements thereof) and any financing statements in respect thereof to be filed, registered and recorded in such manner and in such places as may be required by law in order to publish notice hereof and thereof and fully to perfect and protect the lien of the Trust Indenture upon the trust estate referred to therein or any part thereof. Furthermore, the Borrower, at its own expense, from time to time, will perform or cause to be performed any other act as provided by law and will execute or cause to be executed any and all continuation statements and further instruments that may be requested by the Bond Trustee for such publication, perfection and protection. Except to the extent it is exempt therefrom, the Borrower will pay or cause to be paid all filing and registration and recording fees incident to such filing and registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Loan Agreement, the Bonds, the Trust Indenture, any obligation pledged under the Trust Indenture and any other instruments of further assurance.

Section 7.4. *Protection of TDZ Revenues.* The Borrower covenants that it will not take any action or permit any action to be taken which would cause the Project, including any ancillary structure or facility associated with any qualified public use facility or any qualified associated development, to cease to be qualified as a "qualified public use facility" under the Tourism Development Financing Act, in each case if the same would result in the termination or the diminution, in any way material to the security for or payment of the Bonds, of the TDZ Revenues.

Section 7.5. *Books and Records.* The Borrower covenants that it will keep or cause to be kept proper books of records and accounts, in which entries which are full, true and correct in all material respects, for all dealings or transactions of, or in relation to, the business and affairs of the Borrower in accordance with generally accepted principles of accounting consistently applied.

Section 7.6. *Indemnity.* To the extent permitted by law and without representation that it is permitted by law, the Borrower will pay, and will protect, indemnify and save harmless the Issuer and the Bond Trustee and their officers, directors, employees, and counsel from and against any and all liabilities, losses, damages, costs and expenses (including attorneys' fees and expenses of the Borrower, the Issuer and the Bond Trustee), causes of action, suits, claims, demands and judgments of whatsoever kind and nature (including those arising or resulting from any injury to or death of any person or damage to property) arising from or in any manner directly or indirectly growing out of or connected with the following:

(1) the use, non-use, condition or occupancy of any of the Borrower's facilities included in the Project, any repairs, construction, alterations, renovation, relocation, remodeling and equipping thereof or thereto or the condition of any of such facilities including adjoining sidewalks, streets or alleys and any equipment at any time located on such facilities or used in connection therewith but which are not the result of the negligence of the Issuer or the Bond Trustee;

(2) violation of any agreement, warranty, covenant or condition of this Loan Agreement by the Borrower;

(3) violation of any contract, agreement or restriction by the Borrower relating to such facilities;

(4) violation by the Borrower of any law, ordinance, regulation or court order affecting such facilities or the ownership, occupancy or use thereof;

(5) any statement or information concerning the Borrower, any of its directors, officers, trustees or agents or its or their Property, contained in any disclosure statement relating to any Bonds (each, as the same may be supplemented or amended, an "**Official Statement**") furnished to the Issuer or the purchaser of any of the Bonds, that is untrue or incorrect in any material respect, and any omission from such Official Statement of any statement or information which should be contained therein for the purpose for which Official Statement is to be used or which is necessary to make the statements therein concerning the Borrower, its directors, officers, trustees or agents and its Property not misleading in any material respect, provided that such Official Statement has been approved by the Borrower and the indemnified party did not have knowledge of the omission or misstatement or did not use such Official Statement with reckless disregard of, or gross negligence in regard to, the accuracy or completeness of such Official Statement;

(6) the issuance of the Bonds, the duties, activities, acts or omissions of any Person in connection with the issuance of the Bonds, or the obligations of the various parties arising under the bond documents, or the duties, activities, acts or omissions of any Person in connection with the design, construction, installation, operation, or maintenance of the Project; and

(7) the failure of any remarketing agent or any broker or dealer to comply in all respects with all state and federal securities and other laws in connection with the marketing of the Bonds.

Such indemnity shall extend to each person, if any, who “controls” the Issuer or the Bond Trustee, as the case may be, as that term is defined in Section 15 of the Securities Act of 1933, as amended.

The Issuer or the Bond Trustee shall promptly notify the Borrower in writing of any claim or action brought against the Issuer, the Bond Trustee or any controlling person, as the case may be, in respect of which indemnity may be sought against the Borrower under this Section 7.6, setting forth the particulars of such claim or action. The Borrower will assume the defense thereof, including the employment of counsel satisfactory to the Issuer, the Bond Trustee, or such controlling person, as the case may be, and the payment of all expenses. The Issuer, the Bond Trustee or any such controlling person, as the case may be, may employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall not be payable by the Borrower unless such employment has been specifically authorized in writing by the Borrower.

The obligations of the Borrower set forth in this Section 7.6 shall survive the termination of this Loan Agreement and shall remain in effect with respect to any event occurring prior to the time when all Bonds shall have been paid in full.

The Issuer shall not be required to take any action not expressly required herein. Further, the other provisions hereof or of the Trust Indenture notwithstanding, the Issuer shall not be obligated to take any action or execute any document which might in its reasonable judgment result in any expense or liability upon the Issuer unless the Issuer shall have been furnished with assurance of payment or reimbursement for any expense, and with reasonable indemnity for liability of, the Issuer, its incorporators, directors, officers and counsel.

Section 7.7. *Discharge of Orders, Etc.* The Borrower covenants to cause any order, writ or warrant of attachment, garnishment, execution, replevin or similar process filed against any part of the funds or accounts held by the Bond Trustee under the Trust Indenture to be discharged, vacated, bonded or stayed within 90 days after such filing (which 90-day period shall be extended for so long as the Borrower is contesting such process in good faith), but, notwithstanding the foregoing, in any event not later than five days prior to any proposed execution or enforcement with respect to such filing or any transfer of money or investments pursuant to such filing.

Section 7.8. *Tax Exemption.* In order to maintain the exclusion from gross income for purposes of federal income taxation of interest on Tax-Exempt Bonds, the Borrower shall comply with the provisions of the Code applicable to Tax-Exempt Bonds, including without limitation the provisions of the Code relating to the computation of the yield on investments of the “gross proceeds” of Tax-Exempt Bonds, as such term is defined in the Code, and reporting of the earnings on such gross proceeds and rebates of earnings on such gross proceeds to the United States Department of the Treasury. All necessary computations of the yield on investments and of the amount required to be rebated to the United States Department Treasury shall be made by the Borrower at times and in amounts required by the Code. In furtherance of the foregoing, the Issuer shall comply with the provisions of the Tax Certificate applicable to each series of Tax-Exempt Bonds and with such written instructions as may be provided by Bond Counsel or a special tax counsel.



The Borrower shall not take any action or fail to take any action which would cause any Tax-Exempt Bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code; nor shall any part of the proceeds of any Tax-Exempt Bonds or any other funds of the Issuer be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Tax-Exempt Bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code.

The Borrower shall make any and all payments required to be made pursuant to Section 6.9(5) hereof at times and in amounts sufficient to enable the Issuer to make all payments required to be made to the United States Department of the Treasury in connection with Tax-Exempt Bonds pursuant to Section 148(f) of the Code. The obligation of the Borrower to comply with the provisions of this Section 7.8 with respect to payments of rebates to the United States Department of the Treasury shall remain in full force and effect so long as the Issuer shall be required by the Code to rebate such earnings on the gross proceeds of Tax-Exempt Bonds notwithstanding that the Tax-Exempt Bonds are no longer Outstanding.

Section 7.9. *Appropriations.* The Borrower covenants that it shall include in its annual budget and appropriate for payment to the Bond Trustee from its Non-Property Tax Revenues, and deposit in the Debt Service Fund, the amount necessary, together with all other amounts on deposit or to be deposited therein, to pay the principal of, premium, if any, and interest on the Bonds by the time moneys are required by the Trust Indenture to be on deposit in the Debt Service Fund for such purpose.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

Section 8.1. *Events of Default.* The occurrence and continuance of any of the following events shall constitute an "event of default" hereunder:

(a) failure of the Borrower to make any payment of any installment of interest, principal or premium under this Loan Agreement or any other obligation pledged under the Trust Indenture or any other payment required by Section 6.1 or 6.2 hereof when the same shall become due and payable, whether upon a scheduled Interest Payment Date, at maturity, upon any date fixed for prepayment, or purchase in lieu of redemption or otherwise;

(b) failure of the Borrower to comply with or perform any of the other covenants, conditions or provisions of this Loan Agreement and to remedy such default within 60 days after notice thereof from the Issuer or the Bond Trustee to the Borrower, unless such default is such that it is capable of being remedied but cannot be remedied within such 60 day period and corrective action is instituted by the Borrower within such 60 day period and is diligently pursued until such default is remedied;

(c) proof that any representation or warranty made by the Borrower herein or in any statement or certificate furnished to the Issuer or the Bond Trustee or the purchaser of any Bonds in connection with the sale of the Bonds or furnished by the Borrower pursuant hereto is or was untrue in any material respect as of the date of the issuance or making thereof and shall not be made good within 30 days after notice thereof to the Borrower by the Issuer or the Bond Trustee;

(d) insolvency or bankruptcy of the Borrower, the inability of the Borrower to pay its debts as they mature, failure of the Borrower to generally pay its debts as such debts become due, an assignment by the Borrower for the benefit of its creditors, application for, or consent by the Borrower to, the appointment of a trustee, custodian or receiver for the Borrower or for a material part of the Property of the Borrower;

(e) appointment of a trustee, custodian or receiver for the Borrower or for the material part of the Property of the Borrower which is not discharged within 30 days after such appointment;

(f) bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, proceedings under Title 11 of the United States Code, as amended, or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors instituted by or against the Borrower (other than bankruptcy proceedings instituted by the Borrower against third parties) which, if instituted against the Borrower, is allowed, consented to or is not dismissed, stayed or otherwise nullified within 30 days after such institution;

(g) failure to pay any installment of interest, principal or premium on any Bond when the same shall become due and payable under the provisions of the Trust Indenture as a result of any act or failure to act by the Borrower which is not in accordance with the provisions of this Loan Agreement; or

(h) failure of the Borrower to comply with or perform its obligations pursuant to Section 7.1 or 7.7 hereof.

The Borrower will give immediate notice to the Issuer and the Bond Trustee of the occurrence of any event of default described in Section 8.1(d)-(h).

Section 8.2. *Remedies Upon Default.* Upon the occurrence and during the continuance of any event of default hereunder, the Issuer shall have the following rights and remedies, in addition to any other remedies herein or by law provided:

(a) *Right to Bring Suit, Etc.* The Bond Trustee, on behalf of the Issuer, with or without entry, personally or by attorney, may, in its discretion, proceed to protect and enforce its rights by pursuing any available remedy, including a suit or suits in equity or at law, whether for damages, for the specific performance of any obligation, covenant or agreement contained in or related to this Loan Agreement or the Trust Indenture, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable remedy, as the Bond Trustee shall deem most effectual to collect the payments then due and thereafter to become due under this Loan Agreement or any other obligation pledged under the Trust Indenture, to enforce performance and observance of any obligation, agreement or covenant of the Borrower hereunder or thereunder or to protect and enforce any of the Issuer's rights or duties hereunder or thereunder. Notwithstanding anything herein to the contrary, in no event shall any obligation of the Borrower under this Loan Agreement be accelerated upon an event of default hereunder or otherwise.

(b) *Application of Proceeds of Remedies.* The proceeds resulting from the exercise of any such remedies, together with any other sums which then may be held by the Issuer or the

Bond Trustee under this Loan Agreement, whether under the provisions of this Article or otherwise, and which are available for such application shall be applied as follows:

FIRST: To the payment of the costs and expenses of the exercise of such remedies, including reasonable compensation to the respective agents, attorneys and counsel of the Issuer and the Bond Trustee, the expenses of any judicial proceedings wherein the remedies are pursued and all expenses, liabilities and advances made or incurred by the Issuer, the Bond Trustee and their respective agents, attorneys and counsel, as permitted by this Loan Agreement, together with interest at the Bond Trustee's announced prime rate per annum then in effect on all such advances; and to the payment of all taxes, assessments or claims incurred with respect to the Property of the Borrower prior to the time of the claim for which the remedy was obtained, except any taxes, assessments, liens or other charges, subject to which Property may have been sold.

SECOND: As provided by Section 705(a) of the Trust Indenture.

THIRD: To the payment of any other sums required to be paid by the Borrower pursuant to this Loan Agreement or any other obligations pledged under the Trust Indenture.

FOURTH: To the payment of any other sums required to be paid by the Borrower pursuant to any provision of the Trust Indenture.

FIFTH: If any surplus remains, to the Borrower, its successors or assigns, upon the written request of the Borrower, to whomsoever may be lawfully entitled to receive the same upon written request, or as any court of competent jurisdiction may direct.

Section 8.3. *Remedies Cumulative.* No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, in equity or by statute.

Section 8.4. *Delay or Omission Not a Waiver.* No delay or omission of the Issuer in the exercise of any right or power accruing upon any event of default shall impair any such right or power, or shall be construed to be a waiver of any such event of default or an acquiescence therein; and every power and remedy given by this Loan Agreement to the Issuer may be exercised from time to time and as often as may be deemed expedient by the Issuer.

Section 8.5. *Waiver of Extension, Appraisal, Stay, Laws.* To the extent permitted by law, the Borrower will not, during the continuance of any event of default hereunder, insist upon or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension of law wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Loan Agreement; nor claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of any of the Borrower's property prior to any sale or sales thereof which may be made pursuant to any provision herein contained, or pursuant to the decree, judgment or order of any court of competent jurisdiction; nor, after any such sale or sales, claim or exercise any right under any statute heretofore or hereafter enacted by the United States of America or by any state

or territory thereof, or otherwise, to redeem the property so sold or any part thereof; and, to the extent permitted by law, the Borrower hereby expressly waives all benefits or advantage of any such law or laws and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Issuer, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted.

Section 8.6. *Remedies Subject to Provisions of Law.* All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and be limited to the extent necessary so that they will not render this Loan Agreement invalid or unenforceable under the provisions of any applicable law.

## **ARTICLE IX**

### **SUPPLEMENTS AND AMENDMENTS TO THIS LOAN AGREEMENT**

Section 9.1. *Supplements and Amendments to this Loan Agreement.* The Borrower and the Issuer, with the consent of the Bond Trustee, may from time to time enter into such supplements and amendments to this Loan Agreement as to them may seem necessary or desirable to effectuate the purposes or intent hereof; provided, however, that no such amendment shall be effective if not adopted in accordance with the terms of the Trust Indenture. In this regard, any and all supplements and amendments to this Loan Agreement, and the execution and delivery thereof, shall be subject to the provisions of Article X of the Trust Indenture. Upon the execution of any such supplement or amendment by the parties hereto as in this Section permitted and provided, this Loan Agreement shall be deemed to be supplemented, modified and amended in accordance therewith.

## **ARTICLE X**

### **DEFEASANCE**

Section 10.1. *Defeasance.* If the Borrower shall pay and discharge or provide, in a manner permitted by the Trust Indenture, for the payment and discharge of the whole amount of the principal of, premium, if any, and interest on the Bonds, this Loan Agreement or any obligation pledged under the Trust Indenture, and shall pay or cause to be paid all other sums payable hereunder and under the Trust Indenture, or shall make arrangements satisfactory to the Issuer for such payment and discharge, then all property, rights and interest hereby conveyed or assigned or pledged shall revert to the Borrower and the estate, right, title and interest of the Bond Trustee and the Issuer therein shall thereupon cease, terminate and become void. Furthermore, in such case, this Loan Agreement and the covenants of the Borrower contained herein, shall be discharged and the Issuer, on demand of the Borrower and at the Issuer's cost and expense, shall execute and deliver to the Borrower a proper instrument or proper instruments acknowledging the satisfaction and termination of this Loan Agreement and shall convey, assign and transfer or cause to be conveyed, assigned or transferred, and shall deliver or cause to be delivered, to the Borrower all Property, including money, then held by the Issuer other than money deposited with the Bond Trustee for the payment of the principal of, premium, if any, or interest on this Loan Agreement or any other obligation pledged under the Trust Indenture.

Furthermore, any money or other Property subsequently obtained in trust by the Issuer under or in connection with the Trust Indenture, including without limitation any unclaimed money delivered to the Issuer in accordance with the provisions of Section 1302 of the Trust Indenture, shall be promptly delivered to the Borrower.

## ARTICLE XI

### MISCELLANEOUS PROVISIONS

Section 11.1. *Payment of Expenses of Issuance of Bonds.* The Borrower agrees to be liable and pay for any commitment and other financing costs, recording expenses, trustee's acceptance fees, title insurance costs, legal fees, printing expenses and other fees and fair and customary expenses incurred or to be incurred by or on behalf of the Issuer in connection with or as an incident to the issuance and sale of the Bonds.

Section 11.2. *Loan Agreement for Benefit of Parties Hereto.* Nothing in this Loan Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the parties hereto, the Bond Trustee on behalf of the Bondholders and the holders of rights under this Loan Agreement or any other obligation pledged under the Trust Indenture, any right, remedy or claim under or by reason of this Loan Agreement or any covenant, condition or stipulation hereof. The covenants, stipulations and agreements in this Loan Agreement contained are and shall be for the sole and exclusive benefit of the parties hereto and, to the extent set forth herein, the Bond Trustee, and their respective successors and assigns and the holder of rights under this Loan Agreement or other obligations pledged under the Trust Indenture.

Section 11.3. *Severability.* In case any one or more of the provisions contained in this Loan Agreement, any instrument representing any other obligation under the Trust Indenture or in the Trust Indenture shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

Section 11.4. *Notices.* All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid or by overnight courier, with proper address as indicated below. The Issuer, the Borrower and the Bond Trustee may, by written notice given by each to the others, designate any address or addresses to which notices, certificates or other communications to them shall be sent when required, permitted or contemplated by this Loan Agreement. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

To the Issuer:

Economic Development Growth Engine Industrial Development Board of the  
City of Memphis and County of Shelby, Tennessee  
100 Peabody Place, Suite 1100  
Memphis, Tennessee 38103  
Attn: President

With a copy to:

Farris Bobango Branan PLC  
999 S. Shady Grove Road, Suite 500  
Memphis, Tennessee 38120  
Attn: Stephen L. Anderson, Esq.

To the Borrower:

City of Memphis, Tennessee  
125 North Main Street  
Room 368  
Memphis, Tennessee 38103  
Attn: Chief Financial Officer/Director of Finance

With a copy to:

City of Memphis, Tennessee  
125 North Main Street Room 336  
Memphis, Tennessee 38103  
Attn: Chief Legal Officer/City Attorney

To the Bond Trustee:

Regions Bank  
150 Fourth Avenue  
Suite 1500  
Nashville, Tennessee 37219  
Attn: Corporate Trust Services

Section 11.5. *Successors and Assigns*. Whenever in this Loan Agreement any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included. All the covenants, promises and agreements in this Loan Agreement contained by or on behalf of the Borrower, or by or on behalf of the Issuer, shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

Section 11.6. *Counterparts*. This Loan Agreement is being executed in any number of counterparts, all of which are identical. Each counterpart of this Loan Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument.

Section 11.7. *Immunity of Officers, Employees and Members of the Issuer and the Borrower*. No recourse shall be had for the payment of the principal, premium or interest payable under this Loan Agreement or any other obligation pledged under the Trust Indenture or for any claim based thereon or upon any representation, obligation, covenant or agreement contained herein or therein against any 'past, present or future officer, member, employee, director or other agent of the Issuer or the Borrower, respectively, or of any successor thereto, whether public or private, either directly or through the Issuer, the Borrower or any successor thereto, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise. All such liability of any such officers, members, employees,

directors or other agents is hereby expressly waived and released as a condition of, and in consideration for, the execution of this Loan Agreement and the issuance of any other obligation pledged under the Trust Indenture. Notwithstanding any other provision of this Loan Agreement, the Issuer shall not be liable to any person for any failure of the Issuer to take action under this Loan Agreement unless the Issuer (a) is requested in writing by an appropriate person to take such action, (b) is assured of payment of, or reimbursement for, any reasonable expenses in connection with such action, and (c) is afforded, under the existing circumstances, a reasonable period to take such action and reasonable indemnity for taking such action.

Section 11.8. *Governing Law.* It is the intention of the parties hereto that this Loan Agreement and all other obligations pledged under the Trust Indenture, and the rights and obligations of the parties hereunder and thereunder, shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee.

[Signature Page Follows]

IN WITNESS WHEREOF, the Borrower and the Issuer have caused this Loan Agreement to be executed in their respective corporate names and attested by their duly Authorized Officers, all as of the date first above written.

**THE BORROWER:**

**CITY OF MEMPHIS, TENNESSEE,** a  
Tennessee municipal corporation

By: \_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Comptroller

Approved as to Form

By: \_\_\_\_\_  
Chief Legal Officer/City Attorney

50110676.v2

**THE ISSUER:**

**ECONOMIC DEVELOPMENT GROWTH  
ENGINE INDUSTRIAL DEVELOPMENT  
BOARD OF THE CITY OF MEMPHIS  
AND COUNTY OF SHELBY,  
TENNESSEE,**  
a Tennessee public nonprofit corporation

By: \_\_\_\_\_  
Chair



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TRUST INDENTURE

BETWEEN

ECONOMIC DEVELOPMENT GROWTH ENGINE  
INDUSTRIAL DEVELOPMENT BOARD OF THE  
CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE

AND

REGIONS BANK,  
AS BOND TRUSTEE

DATED AS OF \_\_\_\_\_, 2021

\_\_\_\_\_  
ECONOMIC DEVELOPMENT GROWTH ENGINE  
INDUSTRIAL DEVELOPMENT BOARD OF THE  
CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE  
REVENUE BONDS (LIBERTY PARK PROJECT), SERIES 2021  
(FEDERALLY TAXABLE)

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## **TABLE OF CONTENTS**

### **Article I**

#### **DEFINITIONS**

Section 101.	Definitions.....	3
Section 102.	Accounting Terms.....	11
Section 103.	Construction.....	11

### **Article II**

#### **THE BONDS**

Section 201.	Authorization of Bonds.....	12
Section 202.	Limited Obligation; No Liability of State.....	12
Section 203.	Execution .....	12
Section 204.	Authentication.....	13
Section 205.	Form of Bonds .....	13
Section 206.	Payment of Defaulted Interest .....	13
Section 207.	Issuance of Series of Bonds .....	13
Section 208.	Conditions Precedent to Delivery of Refunding Bonds.....	15
Section 209.	Mutilated, Lost, Stolen or Destroyed Bonds.....	15
Section 210.	Transfer and Exchange of Bonds; Persons Treated as Owners .....	16
Section 211.	Book-Entry Only System.....	17

### **Article III**

#### **APPLICATION OF BOND PROCEEDS AND REQUIRED FUND DEPOSITS**

Section 301.	Deposit of Funds .....	18
Section 302.	Construction Fund.....	19

### **Article IV**

#### **REVENUES AND FUNDS**

Section 401.	Source of Payment of Bonds.....	20
Section 402.	Revenue Fund .....	21
Section 403.	Debt Service Fund.....	21
Section 404.	Debt Service Reserve Fund.....	23

Section 405.	Expense Fund.....	24
Section 406.	Surplus Fund.....	24
Section 407.	Optional Redemption Fund.....	25
Section 408.	Investment of Funds.....	25
Section 409.	Trust Funds .....	26

## Article V

### REDEMPTION OF BONDS

Section 501.	Redemption of Bonds .....	27
Section 502.	Cancellation .....	27
Section 503.	Agent for Delivery .....	27

## Article VI

### GENERAL COVENANTS

Section 601.	Payment of Principal, Premium, if any, and Interest.....	27
Section 602.	Legal Authorization; Right to Indemnity.....	27
Section 603.	Ownership; Instruments of Further Assurance .....	28
Section 604.	Books and Records .....	28
Section 605.	Rights Under the Loan Agreement .....	28
Section 606.	Designation of Additional Paying Agents .....	28
Section 607.	Tax Exemption; Rebates .....	28

## Article VII

### EVENTS OF DEFAULT; REMEDIES

Section 701.	Events of Default .....	29
Section 702.	Remedies; Rights of Bondholders .....	30
Section 703.	Direction of Proceedings by Bondholders .....	30
Section 704.	Appointment of Receivers .....	31
Section 705.	Application of Money .....	31
Section 706.	Remedies Vested in Bond Trustee.....	32
Section 707.	Rights and Remedies of Bondholders.....	32
Section 708.	Termination of Proceedings.....	33
Section 709.	Waiver of Events of Default .....	33

Section 710.	Borrower's Rights of Possession and Use of Its Property .....	33
Section 711.	Notice of Default.....	33
Section 712.	Extension of Payment: Penalty .....	33

## Article VIII

### THE BOND TRUSTEE

Section 801.	Acceptance of the Trusts.....	34
Section 802.	Fees, Charges and Expenses of Bond Trustee and any Additional Paying Agent .....	36
Section 803.	Notice to Bondholders if Default Occurs.....	36
Section 804.	Intervention by Bond Trustee .....	37
Section 805.	Successor Bond Trustee.....	37
Section 806.	Bond Trustee Required; Eligibility.....	37
Section 807.	Resignation by the Bond Trustee.....	37
Section 808.	Removal of the Bond Trustee .....	37
Section 809.	Appointment of Successor Bond Trustee by the Bondholders; Temporary Bond Trustee .....	38
Section 810.	Concerning Any Successor Bond Trustees.....	38
Section 811.	Bond Trustee Protected in Relying Upon Resolution, Etc. ....	39
Section 812.	Bond Trustee as Paying Agent and Registrar .....	39
Section 813.	Successor Bond Trustee as Trustee of Funds, Paying Agent and Bond Registrar .....	39
Section 814.	Required Bond Trustee Reports.....	39
Section 815.	List of Bondholders.....	39

## Article IX

### SUPPLEMENTAL INDENTURES

Section 901.	Supplemental Indentures Not Requiring Consent of Bondholders.....	39
Section 902.	Supplemental Indentures Requiring Consent of Bondholders.....	40
Section 903.	Supplemental Indentures Generally.....	41

## Article X

### AMENDMENTS TO THE LOAN AGREEMENT

Section 1001.	Amendments, Etc. Not Requiring Consent.....	42
---------------	---	----

Section 1002. Amendments, Etc. Requiring Consent of Bondholders .....	42
Section 1003. No Amendment May Alter Borrower Payments .....	43
Section 1004. Bond Counsel Opinion.....	43

## Article XI

### SATISFACTION OF THIS INDENTURE

Section 1101. Defeasance .....	43
Section 1102. Liability of Issuer Not Discharged.....	44
Section 1103. Provision for Payment of a Particular Series of Bonds or any Portion Thereof .....	45

## Article XII

### MANNER OF EVIDENCING OWNERSHIP OF BONDS

Section 1201. Proof of Ownership.....	46
---------------------------------------	----

## Article XIII

### MISCELLANEOUS

Section 1301. Limitation of Rights; Borrower as Third-Party Beneficiary.....	46
Section 1302. Unclaimed Money.....	46
Section 1303. Severability .....	47
Section 1304. Notices .....	47
Section 1305. Counterparts .....	48
Section 1306. Applicable Law .....	48
Section 1307. Immunity of Officers, Employees and Members of Issuer .....	48
Section 1308. Holidays .....	49

**THIS TRUST INDENTURE** (as the same may from time to time be supplemented, amended and restated, this “**Indenture**”), dated as of \_\_\_\_\_, 2021, is entered into between **ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE**, a public nonprofit corporation organized under the laws of the State of Tennessee (as hereinafter defined, the “**Issuer**”), and **REGIONS BANK**, an Alabama banking corporation, as bond trustee (as hereinafter defined, the “**Bond Trustee**”), duly established, existing and authorized to accept and execute trusts of the character herein set out under and by virtue of the laws of the State of Alabama, with a corporate trust office and post office address at Nashville, Tennessee].

**WITNESSETH:**

**WHEREAS**, the Issuer is a public nonprofit corporation organized under the laws of the State of Tennessee and created under Sections 7-53-101 *et seq.*, Tennessee Code Annotated (as heretofore and hereafter amended, the “**Act**”); and

**WHEREAS**, the City of Memphis, Tennessee (as hereinafter defined, the “**Borrower**”) desires to provide for Bonds (as hereinafter defined) to be issued under and pursuant to this Indenture and the loan of the proceeds thereof to the Borrower to (i) pay Costs of the Project (as hereinafter defined), including interest on Bonds during construction of any Project and for two (2) years after the estimated date of completion of such Project, (ii) pay certain expenses incurred in connection with the issuance of Bonds, (iii) fund any debt service reserves, and (iv) pay or provide for the payment of Outstanding Bonds or any portion of any thereof, all as permitted under the Act, by entering into a Loan Agreement, dated as of \_\_\_\_\_, 2021, by and between the Issuer and the Borrower (as the same may from time to time be amended, supplemented and restated, the “**Loan Agreement**”) providing for a loan by the Issuer to the Borrower; and

**WHEREAS**, the Issuer is authorized under the Act, among other things, to issue bonds for the purpose of loaning funds to the Borrower for the foregoing purposes and to enter into a trust indenture providing for the issuance of such bonds and for their payment and security; and

**WHEREAS**, the Issuer has determined that the public interest will be best served and that the purposes of the Act can be more advantageously obtained by the Issuer’s issuance of bonds in order to loan funds to the Borrower as aforesaid; and

**WHEREAS**, the execution and delivery of this Indenture and the Loan Agreement have been in all respects duly and validly authorized by resolutions duly passed and approved by the Issuer; and

**WHEREAS**, all things necessary to make the Bonds, when authorized by the Issuer and authenticated by the Bond Trustee and issued as provided in this Indenture, the valid, binding and legal obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid assignment and pledge of the payments and prepayments under the Loan Agreement to be applied to the payment of the principal of, premium, if any, and interest on the Bonds and a valid assignment of certain of the rights of the Issuer under the Loan Agreement, have been done and performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

**NOW, THEREFORE, THIS INDENTURE WITNESSETH:**

**GRANTING CLAUSES**

That the Issuer in consideration of the premises and of the purchase of the Bonds and of other good and lawful consideration, the receipt of which is hereby acknowledged, and to secure the payment of the principal of, premium, if any, and interest on the Bonds and the performance and observance of all of the covenants and conditions herein or therein contained, has executed and delivered this Indenture and has conveyed, granted, assigned, transferred, pledged, set over and confirmed and granted a security interest and by these presents does hereby convey, grant, assign, transfer, pledge, set over and confirm and grant a security interest, unto the Bond Trustee, its successor or successors and its or their assigns forever, in the property hereinafter described (said property being herein sometimes referred to as the "**Trust Estate**") to wit:

**DIVISION I**

All right, title and interest of the Issuer in and to the Loan Agreement and all amounts payable to the Issuer under the Loan Agreement and all security therefor (excluding Unassigned Rights as hereinafter defined);

**DIVISION II**

All right, title and interest of the Issuer in and to the funds, accounts and subaccounts established pursuant to this Indenture and the assets thereof and income and earnings thereon for the benefit of the Holders of the Outstanding Bonds; and

**DIVISION III**

Any and all other property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, conveyed, pledged, assigned or transferred as and for additional security hereunder by the Issuer or the Borrower or by anyone on their behalf to the Bond Trustee, including without limitation funds of the Borrower held by the Bond Trustee as security for any of the Bonds;

**TO HAVE AND TO HOLD**, all and singular, the properties and the rights and privileges hereby conveyed, assigned and pledged by the Issuer or intended so to be, unto the Bond Trustee and its successors and assigns forever, in trust, nevertheless, with power of sale for the equal and *pro rata* benefit and security of each and every Holder of the Bonds issued and to be issued hereunder, without preference, priority or distinction as to participation in the benefit and protection hereof of one Bond over or from the other Bonds, by reason of priority in the issue or negotiation or maturity thereof, or for any other reason whatsoever, except as herein otherwise expressly provided, so that each and all of the Bonds shall have the same right, lien and privilege under this Indenture and shall be equally secured hereby with the same effect as if the same had all been made, issued and negotiated simultaneously with the delivery hereof and were expressed to mature on one and the same date, except as herein otherwise expressly provided;

**PROVIDED, NEVERTHELESS**, and these presents are upon the express condition that if the Issuer or its successors or assigns shall well and truly pay or cause to be paid the principal of

such Bonds with interest according to the provisions set forth in the Bonds and each of them or shall provide for the payment or redemption of such Bonds by depositing or causing to be deposited with the Bond Trustee the entire amount of funds or securities requisite for payment or redemption thereof when and as authorized by the provisions hereof, and shall also pay or cause to be paid all other sums payable hereunder by the Issuer, then these presents and the estate and rights hereby granted shall cease, determine and become void, and thereupon the Bond Trustee, on payment of its lawful charges and disbursements then unpaid, on demand of the Issuer and upon the payment of the cost and expenses thereof, shall duly execute, acknowledge and deliver to the Issuer such instruments of satisfaction or release as may be necessary or proper to discharge this Indenture, including if appropriate any required discharge of record, and if necessary shall grant, reassign and deliver to the Issuer, its successors or assigns, all and singular the property, rights, privileges and interests by it hereby granted, conveyed and assigned, and all substitutes therefor, or any part thereof, not previously disposed of or released as herein provided; otherwise this Indenture shall be and remain in full force.

**AND IT IS HEREBY COVENANTED, DECLARED AND AGREED** by and between the parties hereto that all Bonds are to be issued, authenticated and delivered, and that all the Trust Estate is to be held and applied, subject to the further covenants, conditions, releases, uses and trusts hereinafter set forth, and the Issuer, for itself and its successors, does hereby covenant and agree to and with the Bond Trustee and its respective successors in said trust, for the benefit of those who shall hold the Bonds, or any of them, as follows:

## **ARTICLE I**

### **DEFINITIONS**

Section 101. Definitions. In addition to the words and terms elsewhere defined in this Indenture, the following words and terms as used in this Indenture shall have the following meanings unless the context or use indicates another or different meaning or intent:

**“Act”** has the meaning given to such term in the recitals to this instrument.

**“Authorized Officer”** means, when used in connection with the Borrower, the Mayor, Comptroller and Chief Financial Officer of the City of Memphis, Tennessee, or any other officer of the Borrower designated in writing by the Mayor of the City of Memphis, Tennessee, to execute an Officer’s Certificate on behalf of the Borrower, and when used in connection with the Issuer, the President, the Chairman, Vice Chairman, the Secretary, any Assistant Secretary and any officer of the Issuer authorized by its bylaws or by or pursuant to a resolution of the Issuer to act on behalf of the Issuer.

**“Bond”** or **“Bonds”** means one or more of the Bonds issued by the Issuer pursuant to the terms and conditions of Section 207 or 208 hereof.

**“Bond Counsel”** means Butler Snow LLP, Carpenter Law, PLLC or any other nationally recognized municipal bond counsel acceptable to the Issuer and the Bond Trustee.



**“Bond Register”** means the registration books of the Issuer kept by the Bond Trustee to evidence the registration and transfer of Bonds.

**“Bond Registrar”** means the Bond Trustee, as keeper of the Bond Register.

**“Bond Trustee”** means Regions Bank, as bond trustee hereunder, or any successor trustee hereunder.

**“Bond Year”** means any twelve-month period beginning on December 1 in one calendar year and ending on, but including, November 30 of the next calendar year. For the purpose of calculating debt service payable on the Bonds in any Bond Year, principal and interest payable on the Bonds on December 1 of any Bond Year shall be deemed to be payable on November 30 of the preceding Bond Year.

**“Bondholder,” “Holder”** and **“owner of the Bonds”** means any Person in whose name a Bond is registered on the Bond Register.

**“Borrower”** means the City of Memphis, Tennessee, a municipal corporation organized under the laws of the State, and any of the Borrower’s successors and assigns.

**“Business Day”** means any day of the year on which banks located in Memphis, Tennessee, or in the city in which the principal corporate trust office of the Bond Trustee is located, are not required or authorized by law or executive order to remain closed.

**“Capitalized Interest Account”** means the Capitalized Interest Account within the Debt Service Fund created by Section 403 hereof.

**“Code”** means the Internal Revenue Code of 1986, as amended from time to time and the regulations promulgated thereunder.

**“Combined Maximum Annual Debt Service”** means, as of any particular date of calculation, Maximum Annual Debt Service on all Outstanding Bonds.

**“Construction Fund”** means the Construction Fund created by Section 302 hereof.

**“Costs of Issuance Fund”** means the Costs of Issuance Fund created by Section 301 hereof.

**“Costs of the Project”** means “costs,” as defined by the Act and the Tourism Development Financing Act, with respect to the Project.

**“County”** means the County of Shelby, Tennessee, a political subdivision of the State.

**“Debt Service Fund”** means the Debt Service Fund created by Section 403 hereof.

**“Debt Service Reserve Account”** means each account established in the Debt Service Reserve Fund pursuant to Section 404 hereof and a Supplemental Indenture with respect to one or more series of Bonds, or all such accounts, as appropriate.

**“Debt Service Reserve Fund”** means the Debt Service Reserve Fund created pursuant to Section 404 hereof.

**“Debt Service Reserve Requirement”** means, with respect to any one or more series of Bonds and the Debt Service Reserve Account therefor, the debt service reserve requirement for such Bonds established pursuant to Section 404 hereof and the Supplemental Indenture with respect to such Bonds.

**“Defaulted Interest”** means interest on any Bond of a particular series which is payable but not duly paid on the date due.

**“Depository Participant”** means a member of, or participant in, the Securities Depository. **“DTC”** means The Depository Trust Company.

**“DTC Letter of Representations”** means the blanket letter of representations from the Issuer to DTC dated May 17, 2017.

**“Escrow Obligations”** means:

- (a) noncallable Government Obligations; or
- (b) noncallable senior debt obligations described in (b) of Permitted Investments if:

- (i) money and noncallable Escrow Obligations on deposit in the escrow are sufficient at all times to pay in full all principal of and interest and premium, if any, on such debt obligations which sufficiency has been verified by the report of an independent certified public accountant or financial analyst (a **“Verification of Sufficiency”**) and no replacement of an Escrow Obligation in such escrow shall be permitted except with a direct obligation of the United States of America or money, and then only upon delivery of a new Verification of Sufficiency,

- (ii) the Bond Trustee has received an opinion of Independent Counsel (which counsel and opinion, including without limitation the form, scope substance and other aspects thereof are acceptable to the Bond Trustee and not objected to by the Issuer) to the effect that such money and Escrow Obligations are not available to satisfy any other claims, including those by or against the Bond Trustee or escrow agent for such bonds and notes, and

- (iii) the Bond Trustee has received an opinion of nationally recognized bankruptcy counsel (which counsel and opinion, including without limitation the form, scope, substance and other aspects thereof are acceptable to the Bond Trustee and not objected to by the Issuer) to the effect that payments made on such debt obligations from such escrow would not be both (A) avoidable as a preferential transfer under section 547(b) of title 11 of the United States Code (the **“Bankruptcy Code”**) and (B) recoverable under section 550 of the Bankruptcy Code, in a case under the Bankruptcy Code in which either issuer or any other person liable on such debt obligations is a debtor should the issuer or any other person liable on such debt obligations become a debtor in a proceeding commenced under the United States Bankruptcy Code.

**“Expense Fund”** means the Expense Fund created by Section 405 hereof.

**“Fiscal Year”** means any twelve-month period beginning on July 1 of any calendar year and ending on and including June 30 of the next succeeding calendar year, or such other twelve-month period selected by the Borrower, from time to time, as its fiscal year.

**“Fitch”** means Fitch Ratings Inc., or any of its successors and assigns, or, if no longer performing the functions of a securities ratings agency, any other nationally recognized securities ratings agency designated by the Borrower by notice to the Bond Trustee.

**“Government Obligations”** means (i) direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, or (ii) obligations the payment of which is fully and unconditionally guaranteed by the United States of America.

**“Indenture”** has the meaning given to such term in the initial paragraph of this instrument.

**“Independent Counsel”** means an attorney or firm of attorneys duly admitted to practice law before the highest court of any state and, without limitation, may include independent legal counsel for the Issuer, the Borrower or the Bond Trustee; provided, however, that any such attorney may not be an employee of the Issuer or the Borrower or of any affiliate or subsidiary of, or other entity controlled by, either of them.

**“Interest Payment Date”** means, with respect to any Bonds, each date set forth in the Supplemental Indenture authorizing the issuance of such Bonds for the payment of scheduled interest on such Bonds, commencing on the date set forth in the Supplemental Indenture.

**“Issuer”** has the meaning given to such term in the first paragraph of this instrument, and any of the Issuer’s successors and assigns.

**“Lien”** means any mortgage or pledge of, security interest in or lien, charge or encumbrance on any Property of the Borrower which secures any obligation to any Person and any capitalized lease under which the Borrower is the lessee or lessor.

**“Loan Agreement”** has the meaning given to such term in the recitals to this instrument.

**“Maximum Annual Debt Service”** means, as of any particular date of calculation and with respect to any particular Outstanding Bonds, an amount equal to the greatest amount required in the then-current or any future Bond Year to pay the scheduled principal of and interest on such Bonds payable during such Bond Year; provided, however, that for purposes of this definition it shall be assumed that:

(a) principal and interest payable on December 1 of a Bond Year is payable on November 30 of the immediately preceding Bond Year; and

(b) a Bond bearing interest at a variable rate, prior to its conversion to bear interest at a fixed rate to its maturity, bears interest during any Bond Year at the lesser of:

(i) a fixed rate of interest equal to that rate, as determined by an Authorized Officer of the Borrower on a Business Day not more than twenty (20) days prior to the date of initial issuance of such variable rate Bond, which the Bond would have had to bear to be marketed at par on such date as a fixed rate obligation maturing on the maturity date of such variable rate Bond; and

(ii) if the Issuer has, at the direction of the Borrower, in connection with such variable rate Bond entered into (A) an interest rate exchange agreement which provides that the Issuer is to pay another person an amount determined based upon a fixed rate of interest on the Outstanding principal amount of the variable rate Bond to which such agreement relates and the counterparty to such agreement pays with respect to a like principal amount a variable rate expected to be reasonably equivalent to the variable rate of interest on such Bonds, or (B) a hedge agreement in the nature of an interest rate cap or collar, then either the fixed interest rate set forth in or determined in accordance with such interest rate exchange agreement or the maximum rate set forth in such hedge agreement, as applicable.

**“Moody’s”** means Moody’s Investors Service, Inc., or any of its successors and assigns, or if no longer performing the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Borrower by notice to the Bond Trustee.

**“Non-Property Tax Revenues”** means all legally available revenues of the City, other than TDZ Revenues, which may be applied to the payments required by the Loan Agreement to be paid by the City, and which shall not include ad valorem property tax revenues.

**“Officer’s Certificate”** means a certificate signed (i) in the case of a certificate delivered on behalf of the Borrower, by an Authorized Officer of the Borrower or, (ii) in case of a certificate delivered on behalf of the Issuer, by an Authorized Officer of the Issuer or, (iii) in case of a certificate delivered on behalf of any corporation, by the President or any authorized Vice-President of such corporation or any other officer duly authorized by such corporation or, (iv) on behalf of any other Person, by the chief executive officer, the chief financial officer or any other authorized officer of such other Person, in each case whose authority to execute such Certificate shall be evidenced to the satisfaction of the Bond Trustee.

**“Operating Expenses”** means all costs, fees and expenses of any kind arising out of or incurred by the Issuer, the Bond Trustee, a tender agent, a remarketing agent or any other person in connection with the administration of the trust estate, or the performance or exercise by such person of any duties, powers and rights hereunder or under the Bonds, including but not limited to the fees and expenses of the Bond Trustee, bond insurance premiums not paid from the Proceeds of Bonds, costs of compliance with Section 607 hereof and fees and expenses in connection with the tender and remarketing of Bonds, but shall not include the principal or redemption price of or redemption premium or interest on Bonds, in each case to the extent constituting a Cost of the Project. Such costs, fees and expenses may, at the option of the Borrower, include a reserve for the aforementioned costs, fees and expenses not to exceed at any time ten percent (10%) of Maximum Annual Debt Service of Bonds.

**“Opinion of Bond Counsel”** means a written opinion of Bond Counsel in form and substance acceptable to the Issuer and the Bond Trustee.

**“Opinion of Counsel”** means a written opinion of counsel who is acceptable to the Bond Trustee and the Issuer in form and substance acceptable to the Issuer and the Bond Trustee.

**“Optional Redemption Fund”** means the Optional Redemption Fund created by Section 407 hereof.

**“Outstanding”** means when used in connection with any Bond, a Bond which has been duly authenticated and delivered by the Bond Trustee under the Indenture, other than:

(a) A Bond cancelled after purchase in the open market or because of payment at or redemption prior to maturity;

(b) A Bond for the payment or redemption of which money or Escrow Obligations shall have been theretofore deposited with the Bond Trustee pursuant to the provisions of Article XI hereof (whether upon or prior to the maturity or redemption date of any such Bonds); provided, however, that if such Bond is to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to the Bond Trustee shall have been made therefor, or waiver of such notice satisfactory in form to the Bond Trustee shall have been filed with the Bond Trustee;

(c) A Bond in lieu of which another Bond has been authenticated under the Indenture; and

(d) For the purpose of any waivers, consents, notices or other actions hereby required or permitted to be given or taken, a Bond owned by or on behalf of the Issuer or the Borrower or by or on behalf of any affiliate or subsidiary of, or any other entity controlled by, either the Issuer or the Borrower.

**“Paying Agent”** means the bank or banks, if any, designated pursuant to this Indenture to receive and disburse the principal of and interest on the Bonds.

**“Permitted Investments”** means and includes any of the following, to the extent, at the time of the acquisition thereof, the same are legal for investment of the Issuer’s funds under the Act:

(a) Government Obligations;

(b) debt obligations of any agency or instrumentality of the United States of America created by an act of Congress including, but not limited to, the Federal Home Loan Banks, Freddie Mac, Federal Farm Credit Banks Funding Corporation, and Fannie Mae;

(c) obligations issued by any state of the United States of America or any political subdivision thereof, rated by at least two Rating Agencies in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise), provided that such obligations are fully secured by and payable solely from an escrow fund held by a trustee consisting of money or Government Obligations;

(d) (i) U.S. dollar denominated corporate notes, bonds, or other debt obligations of any United States or foreign corporation, financial institution, non-profit organization, trust, or other entity which obligations are rated by at least one Rating Agency in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise), or (ii) commercial paper of any United States corporation, company, financial institution, non-profit organization, trust or other entity rated by at least two Rating Agencies in one of the two highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise);

(e) certificates of deposit or time deposits of any bank, trust company or savings and loan, which (a) deposits are fully insured by a federally sponsored deposit insurance program, or (b) bank or its parent holding company's, or trust company's, debt conforms to the rating requirements of (d)(i) above;

(f) banker's acceptances of any bank, which bank or its parent holding company's debt conforms to the rating requirements of (d)(i) above;

(g) repurchase agreements, entered in conformance with prevailing industry standard guidelines, of obligations listed in (a) or (b) above, delivered versus payment to the Bond Trustee and continuously collateralized at (i) 104% or greater if invested in obligations consisting of the securities described in (a) above or (ii) 105% or greater if invested in obligations consisting of the securities described in (b) above, provided that under both (i) and (ii) the counterparties' debt is rated in conformance with the rating requirements of (d)(i) above;

(h) forward delivery agreements with any financial institution that at the time of investment has long-term obligations rated by at least one Rating Agency in one of the four highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) under which obligations described in (a) and/or (b) above are delivered;

(i) investment agreements of any corporation which agreements or the corporation's long-term debt is rated by at least one Rating Agency in one of the three highest ratings categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise);

(j) asset backed securities of corporations, trusts or financial institutions which are rated in the highest rating category (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) by at least two Rating Agencies; and

(k) shares of a money market fund or commingled trust which fund's or trust's investments are restricted to investments described in (a), (b), (c), (e), (f), (g) and/or (j) above.

**"Person"** means any natural person, firm, joint venture, association, partnership, business trust, corporation, limited liability company, public body, agency or political subdivision thereof or any other similar entity.

**"Proceeds"** means the aggregate principal amount of a series of Bonds involved minus any original issue discount and plus any original issue premium on such Bonds, and accrued interest, if any.

**“Project”** means and consists of any “qualified public use facility,” “qualified associated development,” and “ancillary” parking structure (as defined in the Tourism Development Financing Act) approved by the State with respect to the Liberty Park tourism development zone located in Memphis, Tennessee, or all such “qualified public use facilities,” “qualified associated development,” or “ancillary” parking structure or any portion thereof, as applicable.

**“Property”** means any and all rights, titles and interests in and to any and all property whether real or personal, tangible or intangible, and wherever situated.

**“Rating Agency”** means Fitch, Moody’s or Standard & Poor’s and any other nationally recognized credit rating agency then maintaining a rating on any Outstanding Bonds at the request of the Issuer or the Borrower. If at any time any of the aforementioned agencies does not have a rating with respect to any Outstanding Bonds, then a reference herein to Rating Agency or Rating Agencies shall not include such agency.

**“Record Date”** means, when used in connection with any Bond, the 15<sup>th</sup> day (whether or not a business day) of the calendar month next preceding an Interest Payment Date unless otherwise provided in the Supplemental Indenture authorizing the issuance of such Bond.

**“Redemption Date”** means any date on which Bonds are to be redeemed in accordance with the provisions of Article V hereof.

**“Refunding Bond”** means a Bond issued pursuant to Sections 207 and 208 hereof to pay or provide for the payment of any Outstanding Bonds.

**“Revenue Fund”** means the Revenue Fund created by Section 402 hereof.

**“S&P”** or **“Standard & Poor’s”** means S&P Global Ratings, or any of its successors and assigns, or if no longer performing the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Borrower by notice to the Bond Trustee.

**“Securities Depository”** means DTC and its successors and assigns or if (i) the then-acting Securities Depository resigns from its functions as depository of the Bonds or (ii) the Issuer discontinues use of the then-acting Securities Depository pursuant to Section 211 hereof, any other securities depository which is selected by the Issuer at the request of the Borrower.

**“Sinking Fund Redemption”** means, when used in connection with any particular series and maturity of Bonds, the mandatory redemption thereof required to be made in accordance with the Supplemental Indenture authorizing the issuance thereof.

**“Special Record Date”** means the date fixed by the Bond Trustee pursuant to Section 206 hereof for the payment of Defaulted Interest.

**“State”** means the State of Tennessee.

**“Supplemental Indenture”** means any indenture authorizing the issuance of Bonds in accordance with Section 207 hereof or amending or supplementing this Indenture or any prior

Supplemental Indenture executed and becoming effective in accordance with the terms and provisions of Article IX hereof.

**“Surplus Fund”** means the Surplus Fund created by Section 406 hereof.

**“Tax Certificate”** means a certificate or certificates of an Authorized Officer of the Issuer and the Borrower, including the appendices, schedules and exhibits thereto, executed in connection with the issuance of any Tax-Exempt Bonds in which the Issuer and Borrower make representations and agreements as to arbitrage compliance with the provisions of Section 141 through 150, inclusive, of the Code, or any similar certificate, agreement or other instrument made, executed and delivered in lieu of said certificate, in each case as the same may be amended or supplemented.

**“Tax-Exempt”** means, when used in connection with any particular Bond, a Bond the interest on which is, in the opinion of Bond Counsel delivered at the time of issuance of such Bond, excludable from the gross income of the Holder thereof for purposes of federal income taxation.

**“TDZ Revenues”** means a distribution of state and local sales and use taxes, authorized and allocated pursuant to the Tourism Development Financing Act, relating to sales made in the Liberty Park tourism development zone approved by the Borrower and the State, during a period which will begin during the Fiscal Year immediately following the Fiscal Year in which the Project shall commence operations as a “qualified public use facility” and which will continue for thirty (30) Fiscal Years after commencement of operations, unless earlier terminated or extended in accordance with the Tourism Development Financing Act.

**“Tourism Development Financing Act”** means the Convention Center and Tourism Development Financing Act of 1998, Tennessee Code Annotated, Title 7, Chapter 88, Sections 7-88-101 *et seq.*, as heretofore and hereafter amended.

**“Unassigned Rights”** means the right of the Issuer to receive payment of its fees and expenses, the Issuer’s right to indemnification under the Loan Agreement, the Issuer’s right to approve, execute and deliver supplements, amendments and restatements to the Loan Agreement, the Issuer’s right to grant consents under the Loan Agreement, and the rights provided the Issuer in Section 11.7 of the Loan Agreement.

**“Written Request”** means with reference to the Issuer, a request in writing signed by the President, Chairman, Vice-Chairman, Treasurer, Secretary or Assistant Secretary of the Issuer, and, with reference to the Borrower, means a request in writing signed by any officer of the Borrower authorized to execute an Officer’s Certificate on its behalf, as the case may be.

Section 102. Accounting Terms. All accounting terms not otherwise defined herein shall have the meanings assigned to them in accordance with generally accepted accounting principles. Headings of articles and sections herein and the table of contents hereof are solely for the convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

Section 103. Construction. All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions



of this instrument as originally executed. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision unless the context indicates otherwise.

## ARTICLE II

### THE BONDS

Section 201. Authorization of Bonds. No Bonds may be issued under the provisions of this Indenture except pursuant to and in accordance with this Article.

Bonds may be issued without limitation in such principal amount as shall be authorized in the Supplemental Indenture authorizing their issuance for any one or more of the following purposes: (i) to pay Costs of the Project, including interest on Bonds, (ii) to pay certain expenses incurred in connection with the issuance of the Bonds, (iii) to fund any debt service reserves, and (iv) to pay or provide for the payment of Outstanding Bonds or any portion of any thereof.

Section 202. Limited Obligation; No Liability of State. The Bonds shall be limited obligations of the Issuer payable solely from (i) amounts payable under the Loan Agreement (except for Unassigned Rights) and (ii) moneys on deposit in funds or accounts held under the Indenture as and to the extent provided in the Indenture, all of which are hereby assigned and pledged hereunder for the payment as herein provided of the Bonds and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Bonds, except as may be otherwise expressly authorized or provided in this Indenture. The Issuer has no taxing power.

The Bonds and the interest thereon do not now and shall never constitute a charge against the general credit or taxing power of the Issuer, the State or any political subdivision thereof including, without limitation, the Borrower and the County, and the Bonds and the interest thereon do not now and shall never constitute a debt of the State or any political subdivision thereof, including, without limitation, the Borrower and the County, within the meaning of any constitutional or statutory provision whatsoever. Neither the State nor any political subdivision thereof including, without limitation, the Borrower and the County, shall in any event be liable for the payment of the principal of, premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever that may be undertaken by the Issuer. No breach by the Issuer of any such pledge, mortgage, obligation or agreement shall impose any liability, pecuniary or otherwise, upon the State or any political subdivision thereof including, without limitation, the Borrower and the County, or any charge upon their general credit or taxing power.

Section 203. Execution. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of its Chair, Vice Chair or President and by the manual or facsimile signature of its Secretary, Assistant Secretary or Treasurer (or such other officer as may be designated by the Issuer). The facsimile signatures of said officers shall have the same force and effect as if such officers had manually signed each of said Bonds. In case any officer the facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

Section 204. Authentication. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond substantially in the form on Exhibit A hereto, with such appropriate variations, omissions and insertions as are permitted or required by this Indenture or any Supplemental Indenture or deemed necessary by the Bond Trustee and the Issuer, shall have been duly executed by the Bond Trustee, and such executed certificate of the Bond Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Bond Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if manually signed by an authorized officer or signatory of the Bond Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

Section 205. Form of Bonds. The Series 2021 Bonds issued under this Indenture shall be substantially in the form set forth on Exhibit A hereto with such appropriate variations, omissions and insertions as are permitted or required by this Indenture or any Supplemental Indenture or deemed necessary by the Bond Trustee and the Issuer. Bonds other than the Series 2021 Bonds shall be in the form so provided in the Supplemental Indenture authorizing the same.

Section 206. Payment of Defaulted Interest. Defaulted Interest with respect to any Bond shall cease to be payable to the Holder of such Bond on the relevant Record Date and shall be payable to the Holder in whose name such Bond is registered at the close of business of the Bond Trustee on the Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Borrower shall notify the Bond Trustee in writing of the amount of Defaulted Interest proposed to be paid on the Bonds and the date of the proposed payment (which date shall be such as will enable the Bond Trustee to comply with the next sentence hereof), and at the same time the Borrower shall deposit with the Bond Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Bond Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Holders of the Bonds entitled to such Defaulted Interest as provided in this Section. Following receipt of such funds, the Bond Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than fifteen nor less than ten days prior to the date of the proposed payment and not less than ten days after the receipt by the Bond Trustee of the notice of the proposed payment. The Bond Trustee shall promptly notify the Borrower of such Special Record Date and, in the name and at the expense of the Borrower, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each registered owner of a Bond of such series at the address of such owner as it appears on the registration books kept by the Bond Trustee not less than ten days prior to such Special Record Date.

Section 207. Issuance of Series of Bonds. Prior to the delivery by the Bond Trustee of each series of Bonds, or more than one series of Bonds issued at the same time, there shall be filed with or delivered to the Bond Trustee (to the extent not theretofore delivered to the Bond Trustee):

(a) a copy, duly certified by the President, Chair or Vice Chair or other Authorized Officer of the Issuer, of the resolutions adopted and approved by the Issuer authorizing the issuance of such Bonds and the execution and delivery of the Loan Agreement, this Indenture and the

Supplemental Indenture authorizing the issuance of such Bonds; provided, however, that principal of or interest on such Bonds may not be made payable prior to the next succeeding December 1 unless simultaneously with the issuance thereof, funds sufficient to make such payments are available therefor in the Capitalized Interest Account or deposited in the Debt Service Fund from the Surplus Fund;

(b) a copy, duly certified by an Authorized Officer of the Borrower, of the resolutions adopted and approved by the Borrower authorizing the execution and delivery of the Loan Agreement and approving the issuance of such Bonds, this Indenture and the Supplemental Indenture authorizing the issuance of such Bonds;

(c) an original executed counterpart of the Loan Agreement, this Indenture and the Supplemental Indenture authorizing the issuance of such Bonds;

(d) a certificate of an Authorized Officer of the Borrower to the effect that the Costs of the Project to be financed or refinanced through the issuance of such Bonds consist of items for which the Borrower may appropriate Non-Property Taxes and contribute such Non-Property Taxes to the Issuer for the purpose of economic development pursuant to Tennessee Code Annotated Section 6-54-118, as amended;

(e) a Written Request and authorization to the Bond Trustee on behalf of the Issuer, signed by its President, Chair or Vice Chair or other Authorized Officer, to authenticate and deliver such Bonds (specifically stating the principal amount to be issued and delivered to the purchasers therein identified) upon payment to the Bond Trustee, but for the account of the Issuer, of a sum specified in such request and authorization plus accrued interest, if any, thereon to the date of delivery. The Bond Trustee shall out of the Proceeds of such Bonds deposit to the credit of the Capitalized Interest Account the amounts, if any, set forth in the Supplemental Indenture with respect to such Bonds, to be applied as provided by Section 403 hereof, deposit to the credit of the Debt Service Reserve Account for such Bonds the amounts, if any, set forth in the Supplemental Indenture with respect to such Bonds, to be applied as provided by Section 404 hereof, and deposit to the credit of the Costs of Issuance Fund the amount, if any, set forth in said Supplemental Indenture. If the Proceeds received by the Bond Trustee are from the issuance of Bonds for the purpose of acquiring or constructing "projects" (as defined in the Act) that are included as part of the Project under this Indenture, then the Supplemental Indenture shall provide that after making the deposits set forth above the balance of such Proceeds shall be deposited in the Construction Fund; and

(f) Other than (i) the initial series of Bonds (or more than one series of Bonds issued at the same time) or (ii) Refunding Bonds issued pursuant to Section 208 hereof, either:

(1) an Officer's Certificate of the Borrower (A) setting forth the TDZ Revenues collected during the preceding Fiscal Year, and (B) setting forth the Maximum Annual Debt Service on the Outstanding Bonds after giving effect to the issuance of such additional Bonds and (C) establishing that the amount set forth in (A) is at least equal to [1.00] times such Maximum Annual Debt Service set forth in (B); or

(2) (A) an independent consultant's report setting forth the projected TDZ Revenues for the first full Fiscal Year after projected completion of acquisition or construction of the facilities or improvements financed with Proceeds of such additional Bonds and (B) an Officer's Certificate of the Borrower (i) setting forth the Maximum Annual Debt Service on the Outstanding Bonds after giving effect to the issuance of such additional Bonds and (ii) establishing that the amount set forth in (A) is at least equal to [1.00] times such Maximum Annual Debt Service set forth in (B)(i).

(g) such other closing documents and opinions of counsel as the Bond Trustee or the Issuer may reasonably specify.

Section 208. Conditions Precedent to Delivery of Refunding Bonds. (a) Refunding Bonds of any one or more series may be issued pursuant to this Section to pay or provide for the payment of any or all Outstanding Bonds. Refunding Bonds shall be issued in an amount sufficient, together with other money available therefore, to accomplish such refunding and to make such deposits required by the provisions of this Section and of the Supplemental Indenture authorizing the issuance of such Refunding Bonds.

(b) A series of Refunding Bonds may be authenticated and, delivered only upon receipt by the Bond Trustee (in addition to the documents required by Section 207 hereof, other than those required by paragraph (f) of such Section 207) of:

(i) if any of the Bonds to be refunded are to be redeemed prior to their maturity, irrevocable instruction to the Bond Trustee, satisfactory to it, to give notice of redemption of such Bonds in accordance with the Supplemental Indenture authorizing such Bonds to be redeemed;

(ii) either (A) money in the amount required by and delivered and held in accordance with the provisions of Section 1101(b) or 1103(b) hereof or (B) Escrow Obligations in such amount required by and delivered and held in accordance with the provisions of Section 1101(d) or 1103(d) hereof; and

(iii) an Officer's Certificate of the Borrower stating that [(A) the Maximum Annual Debt Service on the Bonds Outstanding after giving effect to the issuance of the Refunding Bonds will not be greater than the Maximum Annual Debt Service on the Bonds Outstanding immediately preceding issuance of the Refunding Bonds, and (B)] the amount payable in any Bond Year for the principal of, including through mandatory Sinking Fund Redemption, and interest on Bonds Outstanding after giving effect to the issuance of the Refunding Bonds will not be greater than the amount payable during any Bond Year on the Bonds Outstanding immediately preceding issuance of the Refunding Bonds.

Section 209. Mutilated, Lost, Stolen or Destroyed Bonds. In the event any temporary or definitive Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Bond Trustee may authenticate a new Bond of like form, date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided, however, that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Bond Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Bond Trustee evidence of such loss, theft or destruction

satisfactory to the Bond Trustee, together with indemnity satisfactory to the Bond Trustee and the Issuer. In the event any such Bond shall have matured, instead of issuing a duplicate Bond the Issuer may pay the same without surrender thereof. The Issuer and the Bond Trustee may charge the Holder or owner of such Bond with their reasonable fees and expenses in this connection.

Section 210. Transfer and Exchange of Bonds; Persons Treated as Owners. The Issuer shall cause the Bond Register to be kept by the Bond Trustee at its designated corporate trust office. At reasonable times and under reasonable regulations established by the Bond Trustee, the Bond Register may be inspected and copied by the Issuer.

Upon surrender for transfer of any Bond at the designated corporate trust office of the Bond Trustee, the Issuer shall execute and the Bond Trustee shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of the same series and maturity and of authorized denomination for the aggregate principal amount which the registered owner is entitled to receive. Any Bond or Bonds may be exchanged at said office of the Bond Trustee for a like aggregate principal amount of Bond or Bonds of the same series and maturity of other authorized denominations. The execution by the Issuer of any Bond shall constitute full and due authorization of such Bond, and the Bond Trustee shall thereby be authorized to authenticate, date and deliver such Bond.

All Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature satisfactory to the Bond Trustee, duly executed by the registered owner or by such owner's duly authorized attorney.

No service charge shall be imposed for any exchange or transfer of Bonds. The Issuer and the Bond Trustee may, however, require payment by the person requesting an exchange or transfer of Bonds of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto, except in the case of the issuance of a Bond or Bonds for the unredeemed portion of a Bond surrendered for redemption.

The Issuer and the Bond Trustee shall not be required to register the transfer of or exchange any Bond after notice calling such Bond or portion thereof for redemption has been given or during the fifteen-day period next preceding the first mailing of such notice of redemption.

New Bonds delivered upon any transfer or exchange shall be valid obligations of the Issuer, evidencing the same debt as the Bonds surrendered, shall be secured by this Indenture and shall be entitled to all of the security and benefits hereof to the same extent as the Bond surrendered.

The Issuer and the Bond Trustee may treat the registered owner of any Bond as the absolute owner thereof for all purposes, whether or not such Bond shall be overdue, and shall not be bound by any notice to the contrary. All payments of or on account of the principal of and premium, if any, and interest on any such Bond as herein provided shall be made only to or upon the written order of the registered owner thereof or his legal representative, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Any Bond surrendered for the purpose of payment or retirement or for exchange or transfer, or for replacement pursuant to Section 209 hereof, shall be cancelled upon surrender thereof to the Bond Trustee or any Paying Agent. If the Issuer or the Borrower shall acquire any of the Bonds, the Issuer or such Borrower shall deliver such Bonds to the Bond Trustee for cancellation and the Bond Trustee shall cancel the same. Any such Bonds cancelled by any Paying Agent other than the Bond Trustee shall be promptly transmitted by such Paying Agent to the Bond Trustee. Certification of Bonds cancelled by the Bond Trustee and Bonds cancelled by a Paying Agent other than the Bond Trustee which are transmitted to the Bond Trustee shall be made to the Issuer and to the Borrower. Cancelled Bonds may be destroyed by the Bond Trustee unless instructions to the contrary are received from the Issuer or the Borrower.

Section 211. Book-Entry Only System. The Bonds of each series shall be initially issued in the form of a separate single fully registered Bond for each of the maturities within such series bearing interest at the same rate. Upon initial issuance, the ownership of the Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of the Securities Depository, and except as hereinafter provided, all of the Outstanding Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of the Securities Depository.

With respect to Bonds registered in the Bond Register in the name of Cede & Co., as nominee of the Securities Depository:

(1) the Issuer, the Bond Trustee and the Borrower shall have no responsibility or obligation to any Depository Participant or to any person on behalf of whom such a Depository Participant holds a beneficial interest in the Bonds. Without limiting the immediately preceding sentence, the Issuer, the Bond Trustee and the Borrower shall have no responsibility or obligation with respect to (i) the accuracy of the records of the Securities Depository, Cede & Co. or any Depository Participant with respect to any beneficial ownership interest in any Bond, (ii) the delivery to any Depository Participant or any other Person, other than a Bondholder, as shown in the Bond Register, of any notice with respect to any Bonds, including without limitation any notice of redemption, (iii) the payment to any Depository Participant or any other Person, other than a Bondholder, as shown in the Bond Register, of any amount with respect to principal of, premium, if any, or interest on, or the purchase price of, any Bond, or (iv) any consent given by the Securities Depository as registered owner.

(2) The Bond Trustee and each Paying Agent, if any, shall pay all principal of, premium, if any, and interest on the Bonds and the purchase price of any Bond only to or upon the order of the respective Bondholders, as shown in the Bond Register as provided in this Indenture, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds and the purchase price of any Bond to the extent of the sum or sums so paid.

(3) No Person other than a Bondholder, as shown in the Bond Register, shall receive a Bond certificate evidencing the obligation of the Issuer to make payments of principal, premium, if any, and interest pursuant to this Indenture.

The Bondholders have no right to designate a depository for the Bonds. The Issuer or the Bond Trustee may remove the Securities Depository or any successor thereto for any reason at any time. In such event, the Issuer or the Bond Trustee if the Issuer shall fail to do so, shall (i) at the request of the Borrower appoint a successor Securities Depository, qualified to act as such under Section 17(a) of the Securities Exchange Act, notify the prior Securities Depository of the appointment of such successor securities depository and transfer one or more separate Bond certificates to such successor securities depository or (ii) at the request of the Borrower notify the Securities Depository of the availability through the Securities Depository of Bond certificates and transfer one or more separate Bond certificates to Depository Participants having Bonds credited to their Securities Depository accounts. In such event, the Bonds shall no longer be restricted to being registered in the Bond Register in the name of Cede & Co., as nominee of the Securities Depository, but may be registered in the name of the successor Securities Depository, or its nominee, or in whatever name or names the Depository Participants receiving Bonds shall designate, in accordance with the provisions of this Indenture.

The Issuer has executed the DTC Letter of Representations. Such DTC Letter of Representation is for the purpose of effectuating the Book-Entry Only System only and shall not be deemed to amend, supersede or supplement the terms of this Indenture which are intended to be complete without reference to the DTC Letter of Representation. In the event of any conflict between the terms of the DTC Letter of Representation and the terms of this Indenture, the terms of this Indenture shall control. The Securities Depository may exercise the rights of a Bondholder hereunder only in accordance with the terms hereof applicable to the exercise of such rights.

### ARTICLE III

#### APPLICATION OF BOND PROCEEDS AND REQUIRED FUND DEPOSITS

Section 301. Deposit of Funds. The Issuer, for and on behalf of the Borrower, shall deposit with the Bond Trustee, or as otherwise may be directed by the Borrower, all of the net Proceeds loaned to the Borrower from the sale of each series of Bonds (including accrued interest on such Bonds from the date from which interest is to be paid thereon to the date of their delivery to the purchasers), and the Bond Trustee shall apply such Proceeds, as provided in the Supplemental Indenture authorizing the issuance of such Bonds or other Written Request.

The Issuer shall establish with the Bond Trustee a separate fund to be known as the “**Costs of Issuance Fund.**” Any such Proceeds may be credited to the Costs of Issuance Fund to be used for the payment of expenses for any recording, trustee’s and depository’s fees and expenses, accounting and legal fees, municipal bond insurance premiums, financing costs (including costs of acquiring investments for the funds and escrows) and other fees and expenses incurred or to be incurred by or on behalf of the Issuer or the Borrower in connection with or incident to the issuance and sale of such Bonds. Accounts may be created in the Costs of Issuance Fund for any purpose pursuant to a Written Request from the Borrower delivered to the Bond Trustee. At such time as the Bond Trustee is furnished with a Written Request executed by the Borrower and the Issuer stating that all such fees and expenses have been paid, the Bond Trustee shall transfer any money remaining in the Costs of Issuance Fund to the Debt Service Fund or otherwise in accordance with such Written Request.

Section 302. Construction Fund. (a) Upon the issuance of any Bonds for the purpose of acquiring or constructing all or a portion of the Project under this Indenture, the Issuer shall establish with the Bond Trustee a separate fund to be known as the “**Construction Fund**,” to the credit of which a deposit shall be made pursuant to the provisions of Section 301 hereof. Accounts may be created in the Construction Fund for any purpose pursuant to a Written Request from the Borrower delivered to the Bond Trustee. Any money received by the Bond Trustee from any source for the acquisition, construction, renovation, rehabilitation, remodeling, furnishing or equipping portions of the Project shall be deposited in the Construction Fund unless otherwise specifically excepted hereunder. The money in the Construction Fund shall be held in trust by the Bond Trustee, shall be applied to the payment of Costs of the Project and, pending such application, shall be held as trust funds under this Indenture in favor of the Holders of the Outstanding Bonds and for the further security of such Holders until paid out or transferred as provided in this Section.

(b) All payments from the Construction Fund shall be made only upon receipt by the Bond Trustee of a requisition of the Borrower, signed by an Authorized Officer of the Borrower, in the form attached hereto as Exhibit B setting forth or certifying the following:

- (A) the name of the Person or Persons to whom payment is due;
- (B) the respective amounts to be paid to each such Person and the account within the Construction Fund from which such amount is to be paid;
- (C) (i) the purpose in terms sufficient for identification for which each obligation to be paid was incurred and (ii) the items for which payment or reimbursement is being requested;
- (D) that obligations in the stated amounts have been incurred by or on behalf of the Borrower and are presently due and payable and constitute Costs of the Project within the meaning of this Indenture and that each item thereof is a proper charge against the Construction Fund and has not been paid or reimbursed, as the case may be, from the proceeds of the Bonds;
- (E) that such requisition contains no item representing payment on account of any retained percentage which the Borrower is at the date of such requisition entitled to retain, unless the Borrower has waived such retention right;
- (F) that there is no outstanding indebtedness known to the Borrower, after due inquiry, for work, materials or supplies which, if unpaid, could be the basis for a vendor's or mechanic's or similar lien on the Project or any part of it, other than indebtedness to be paid pursuant to the requisition or from amounts withheld to secure completion, and that no notice of any lien or claim affecting the right of any Person to receive a payment requested in the requisition has been filed with or served upon the Borrower;
- (G) that the withdrawal and use of the Construction Fund money for the purpose intended will not cause any representations or certifications of the Borrower to be untrue;



(H) that the Borrower has copies of all invoices and statements with respect to the amounts to be paid pursuant to such requisition; and

(I) that, as to any payment to be made under a construction contract:

(1) the Borrower has obtained written waiver by the construction manager or general contractor under such contract of mechanics' and vendors' liens for all work and material described in the requisition performed or furnished by such construction manager or general contractor; and

(2) either (i) a lien search report dated within two business days of the date of the requisition reflects no liens, stop notices or other evidence of nonpayment of any mechanic, materialman or other person; or (ii) waivers of mechanics' and vendors' liens for all work and material performed or furnished to the Project from all others (other than the construction manager or general contractor); and

(3) the contractor is entitled to payment in the amount shown in the requisition.

(c) The Bond Trustee shall maintain adequate records pertaining to the Construction Fund and all disbursements therefrom. All such records and all requisitions, certificates and other documents or instruments received by the Bond Trustee pertaining to the Construction Fund or disbursements therefrom or in connection with the Project or its completion, may be relied upon by the Bond Trustee and shall be retained by the Bond Trustee until the sixtieth month following certification of the completion of the Project pursuant to paragraph (d) of this Section.

(d) The completion date of the Project shall be established by the filing with the Bond Trustee of an Officer's Certificate of the Borrower to the effect that the moneys, if any, on deposit in the Construction Fund are no longer required by the Borrower for the payment of Costs of the Project.

Upon the filing of such Officer's Certificate, any money then remaining in the Construction Fund, shall upon the Written Request of the Borrower be (x) transferred to the Debt Service Fund in the amounts set forth in such Written Request, or (y) applied to the redemption or defeasance in accordance with Section 1103 hereof of Outstanding Bonds in accordance with such Written Request.

## **ARTICLE IV**

### **REVENUES AND FUNDS**

Section 401. Source of Payment of Bonds. The Bonds herein authorized and all payments to be made by the Issuer thereon and into the various funds established under this Indenture are not general obligations of the Issuer but are limited obligations payable solely from the sources described in Section 202 hereof.

Section 402. Revenue Fund. (a) The Issuer shall establish with the Bond Trustee and maintain so long as any of the Bonds are Outstanding a separate fund to be known as the “**Revenue Fund.**” All payments of TDZ Revenues made by the Borrower pursuant to the Loan Agreement pledged hereunder, as and when received by the Bond Trustee, shall be deposited in the Revenue Fund and shall be held therein until disbursed as herein provided. Pursuant to the assignment and pledge of payments under the Loan Agreement set forth in the granting clauses contained herein, the Issuer will direct the Borrower to make such payments to the Bond Trustee when and as the same become due and payable by the Borrower under the Loan Agreement.

(b) The Bond Trustee shall, on or before November 1 of each Fiscal Year, make the deposits and payments from all amounts in the Revenue Fund in the amounts and in the order of priority set forth below, in each case to the extent of available funds on deposit therein:

(i) To the Debt Service Fund, an amount which, together with the amount then on deposit in the Debt Service Fund, equals the sum of (A) the principal of Outstanding Bonds payable at maturity or through mandatory Sinking Fund Redemption during the twelve (12) calendar months next succeeding the date of such deposit, plus (B) the interest on such Outstanding Bonds payable during the twelve (12) calendar months next succeeding the date of such deposit; then

(ii) To each Debt Service Reserve Account, if any, *pro rata* based on the respective Debt Service Reserve Requirements therefor, an amount which, together with the amount then on deposit in such Debt Service Reserve Account, equals such Debt Service Reserve Requirement; then

(iii) To the Expense Fund, the estimated Operating Expenses for the next succeeding twelve (12) calendar months as certified to the Bond Trustee by the Borrower; then

(iv) To the Borrower, the amount of Non-Property Tax Revenues theretofore paid by the Borrower pursuant to Section 403(f) hereof for which it has not previously been reimbursed pursuant to this clause (v); and, then

(v) To the Surplus Fund, any amount remaining in the Revenue Fund after the preceding deposits and payments have been made.

Section 403. Debt Service Fund. (a) *Establishment of Accounts.* The Issuer shall establish with the Bond Trustee and maintain so long as any of the Bonds are Outstanding a separate fund to be known as the “**Debt Service Fund.**” Within the Debt Service Fund there shall be established the Capitalized Interest Account. Deposits to the credit of the Capitalized Interest Account shall be made in accordance with Section 207(e) hereof.

(b) Debt Service Accounts. The Bond Trustee shall apply the money on deposit in the Debt Service Fund, first, together with the amounts available in the Capitalized Interest Account or transferred from the Debt Service Reserve Fund or Surplus Fund, to the payment of interest on Outstanding Bonds when due, and, then, to the payment of the principal of Outstanding Bonds when due either at maturity or through mandatory Sinking Fund Redemption.

A separate subaccount shall be created by the Bond Trustee, without further direction, for each series of Bonds secured by a Debt Service Reserve Account in the Debt Service Reserve Fund to facilitate the application of moneys transferred to the Debt Service Reserve Fund pursuant to paragraph (e) of this Section.

Notwithstanding the foregoing, the Bond Trustee shall, at the Written Request of the Borrower, apply the money on deposit in the Debt Service Fund, other than income earned thereon which is to be transferred to other funds created hereunder, to purchase in the open market an amount of Bonds of the series and maturity to be paid at maturity on the next succeeding maturity date applicable thereto or redeemed through mandatory Sinking Fund Redemption on the next succeeding mandatory Redemption Date applicable thereto, as applicable, at prices not exceeding the principal amount of Bonds being purchased plus accrued interest (which interest shall be paid from amounts on deposit in the Debt Service Fund). The Bonds of such series and maturity so purchased shall be cancelled by the Bond Trustee and the principal amount thereof shall be applied against and in reduction of the principal payment due on such Bonds on such maturity date or the mandatory Sinking Fund Redemption due on such Bonds on such mandatory Redemption Date, as applicable.

(c) Capitalized Interest Account. Money on deposit in the Capitalized Interest Account from Proceeds of a series of Bonds shall, prior to any transfer to the Debt Service Fund pursuant to the provisions of paragraph (d) or (e) of this Section, be transferred to the Debt Service Fund in the amounts and at the times specified by the Supplemental Indenture authorizing the issuance of such Bonds.

(d) Surplus Fund Transfers. If on the fifth (5<sup>th</sup>) Business Day immediately prior to the date on which the principal of or interest on Outstanding Bonds is payable, with respect to principal either at maturity or through mandatory Sinking Fund Redemption, there is insufficient money in the Debt Service Fund to make such payment, the Bond Trustee shall transfer from the Surplus Fund to the Debt Service Fund an amount equal to the deficiencies therein to the extent of the available money in the Surplus Fund. The Bond Trustee also shall transfer money from the Surplus Fund to the Debt Service Fund pursuant to a Written Request of the Borrower pursuant to the proviso to paragraph (a) of Section 207 hereof in connection with the issuance of certain additional Bonds.

(e) Debt Service Reserve Fund Transfers. If on the fifth (5<sup>th</sup>) Business Day immediately prior to the date on which the principal of or interest on Outstanding Bonds of a series that is secured by a Debt Service Reserve Account is payable, with respect to principal either at maturity or through mandatory Sinking Fund Redemption, there is insufficient money in the Debt Service Fund to make such payment after any transfer thereto from the Surplus Fund pursuant to paragraph (d) of this Section, the Bond Trustee shall transfer from such Debt Service Reserve Account to the Debt Service Fund an amount equal to such deficiency therein to the extent of the available money in such Debt Service Reserve Account, which shall be applied solely to the payment of principal of or interest on such series of Bonds.

(f) Non-Property Tax Revenue Transfers. If on November 2 of any Fiscal Year, the amount on deposit in the Debt Service Fund is less than the aggregate amount required for the payment of the principal of Outstanding Bonds due at maturity or through mandatory Sinking Fund

Redemption, and the interest on all Outstanding Bonds due on the next Interest Payment Date, the Bond Trustee shall promptly, but in any event within five (5) Business Days, give written notice thereof to the Issuer and the Borrower.

If on the fifth (5<sup>th</sup>) Business Day immediately prior to either the date on which the principal of Outstanding Bonds is payable, either at maturity or through mandatory Sinking Fund Redemption, or any Interest Payment Date, and after the transfers required by paragraph (d) and paragraph (e) of this Section, there is insufficient money in the Debt Service Fund to pay such principal or interest, the Bond Trustee shall make demand upon the Borrower for the payment of Non-Property Tax Revenues to the Debt Service Fund of an amount equal to the deficiency therein, which payment shall be made by the Borrower no later than the Business Day immediately prior to the date on which the principal of or interest on Outstanding Bonds is payable, which amount upon receipt shall be deposited in the Debt Service Fund and applied solely to the payment of principal of and interest on such Bonds. The Borrower also may make any such payment in advance of the time required by the foregoing provisions without the necessity of any demand therefor.

(g) Partial Redemption or Defeasance. In connection with any partial redemption or defeasance prior to maturity of the Bonds, the Bond Trustee may, at the Written Request of the Borrower, use any amounts on deposit in the Debt Service Fund in excess of the amount needed to pay the interest on the Bonds remaining Outstanding on the first Interest Payment Date occurring on or after the date of such redemption or defeasance to pay the principal of and interest on the Bonds to be redeemed or defeased.

Section 404. Debt Service Reserve Fund. (a) The Issuer shall establish with the Bond Trustee a separate debt service reserve fund to be known as the “**Debt Service Reserve Fund.**” Any Supplemental Indenture, whether or not authorizing the issuance of a series of Bonds, may (but shall not be required to) specify that there shall be established with the Bond Trustee a Debt Service Reserve Account within the Debt Service Reserve Fund to further secure such series of Bonds and/or any series of Refunding Bonds issued to refund such series of Bonds or any portion thereof, and/or any other series of Bonds whether theretofore or thereafter issued, and establish the Debt Service Reserve Requirement therefor. Such Supplemental Indenture shall include provisions with respect to the initial funding of the Debt Service Reserve Account(s) and otherwise provide with respect thereto.

(b) Money in the Debt Service Reserve Accounts of the Debt Service Reserve Fund shall be withdrawn by the Bond Trustee and deposited to the credit of the Debt Service Fund, for credit to the applicable subaccounts therein established pursuant to Section 403(b) hereof, at the times and in the amounts and for the purposes required by the provisions of Section 403 hereof; provided, however, that moneys withdrawn from a Debt Service Reserve Account established for particular Bonds shall be applied only to the payment of principal of and interest on such Bonds.

(c) The income or interest earned on investments held for the credit of any Debt Service Reserve Account for a particular series of Bonds shall, at the Written Request of the Borrower, be withdrawn by the Bond Trustee and deposited in the Debt Service Fund, for credit to the subaccount therein established pursuant to Section 403(b) hereof applicable to such Bonds, in accordance with such direction; provided, however, that no withdrawal of such income or interest shall be made if

the amount in such Debt Service Reserve Account is then or upon such withdrawal will be less than the Debt Service Reserve Requirement applicable thereto.

(d) Amounts in any Debt Service Reserve Account for a particular series of Bonds that are at any time in excess of the Debt Service Reserve Requirement applicable thereto shall, upon the Written Request of the Borrower, be withdrawn therefrom by the Bond Trustee and deposited in the Debt Service Fund, for credit to the subaccount therein established pursuant to Section 403(b) hereof applicable to such Bonds.

(e) Whenever by this Section the amount in any Debt Service Reserve Account is to be determined, such determination shall be made by the Bond Trustee. Permitted Investments held in each such account shall be valued at the lesser of amortized cost or par, plus accrued and unpaid interest thereon.

Section 405. Expense Fund. The Issuer shall establish with the Bond Trustee and maintain so long as any Bonds are Outstanding a separate fund to be known as the “**Expense Fund**.” Money in the Expense Fund shall be used only for payment of the Operating Expenses or to reimburse the Borrower for Operating Expenses theretofore paid by it for which it has not previously been reimbursed. Such money shall be paid by the Bond Trustee upon receipt of the Written Request of the Borrower to or upon the order of the Borrower at such times and in such amounts as the Borrower considers necessary to make such payments.

Section 406. Surplus Fund. The Issuer shall establish with the Bond Trustee and maintain so long as any Bonds are Outstanding a separate fund to be known as the “**Surplus Fund**.” Money shall be deposited in the Surplus Fund in accordance with Section 402(b) hereof. The income or interest earned on investments held for the credit of the Surplus Fund shall be retained therein until applied in accordance with this Section.

Money in the Surplus Fund shall be withdrawn by the Bond Trustee and deposited, first, to the credit of the Debt Service Fund at the times and in the amounts required by the provisions of Section 403(d) hereof, and, second, to the extent of any excess, to cause the amounts on deposit in any Debt Service Reserve Accounts within the Debt Service Reserve Fund to equal the respective Debt Service Reserve Requirement therefor, if necessary; provided, however, that any balance on deposit in the Surplus Fund may at any time by Written Request from the Borrower be transferred to the Debt Service Fund and applied for purposes of Section 402(b) hereof. Money remaining in the Surplus Fund at any time, if not then required for transfer to the Debt Service Fund or Debt Service Reserve Fund pursuant to the preceding sentence, shall be paid, applied, withdrawn, deposited or transferred for any one or more of the following:

(a) paid by the Bond Trustee to the Borrower in accordance with the Written Request of the Borrower to reimburse it for payments theretofore made from Non-Property Tax Revenues pursuant to Section 403(f) hereof for which it has not previously been reimbursed pursuant to Section 402(b)(iv) hereof;

(b) applied by the Bond Trustee in accordance with the Written Request of the Borrower to either or both of (i) the optional or extraordinary redemption or purchase of Outstanding Bonds

in accordance with the Supplemental Indenture authorizing the Bonds to be purchased or redeemed and (ii) defeasance in accordance with Section 1101 or 1103 hereof of Outstanding Bonds;

(c) applied by the Bond Trustee in accordance with the Written Request of the Borrower to pay Costs of the Project or to reimburse the Borrower for Costs of the Project theretofore paid by the Borrower for which it has not previously been reimbursed;

(d) withdrawn by the Bond Trustee and deposited in accordance with the Written Request of the Borrower in the Debt Service Fund pursuant to paragraph (a) of Section 207 hereof in connection with the issuance of certain additional Bonds; and

(e) transferred by the Bond Trustee in accordance with the Written Request of the Borrower to the Borrower or an indenture or bond trustee for the payment of principal of or premium, if any, or interest on any indebtedness (other than indebtedness issued under this Indenture) of any authorized issuer or the Borrower to pay Costs of the Project, for the payment of other Costs of the Project, or for any other lawful purpose.

Notwithstanding the provisions of the foregoing paragraph, money in the Surplus Fund shall not be applied for any purpose described in (a), (c), (d) or (e) above unless the Borrower shall deliver to the Bond Trustee an Officer's Certificate of the Borrower: (A) setting forth the TDZ Revenues collected during the preceding Fiscal Year; (B) setting forth the Combined Maximum Annual Debt Service on the Outstanding Bonds; and (C) establishing that the amount set forth in clause (A) is at least equal to the total of such Combined Maximum Annual Debt Service set forth in clause (B).

Section 407. Optional Redemption Fund. The Issuer shall establish with the Bond Trustee and maintain so long as any of the Bonds are Outstanding a separate fund to be known as the "**Optional Redemption Fund**." In the event of (a) prepayment by or on behalf of the Borrower of amounts payable under the Loan Agreement pledged under this Indenture, including prepayment with condemnation or insurance proceeds, or (b) deposit with the Bond Trustee by the Borrower or the Issuer of money from any other source for redeeming Bonds, except as otherwise provided in this Indenture, such money shall be deposited in the Optional Redemption Fund. Money on deposit in the Optional Redemption Fund shall be used, first, to make up any deficiencies existing in the Debt Service Fund and, second, for the redemption or purchase of Bonds in accordance with the provisions of Article V hereof.

Section 408. Investment of Funds. (a) Upon a Written Request of the Borrower filed with the Bond Trustee, money in the Revenue Fund, Debt Service Fund, Costs of Issuance Fund, Expense Fund, Construction Fund, Surplus Fund and Optional Redemption Fund shall be invested in Permitted Investments. Such investments shall be made so as to mature or allow withdrawals at par on or prior to the date or dates that money therefrom is anticipated to be required, and the income resulting therefrom shall be credited to the fund or account from which the investment was made, subject to application as provided by subsection (b) of this Section. The Bond Trustee, when authorized by the Borrower, may trade with itself in the purchase and sale of securities for such investment. The Bond Trustee shall not be liable or responsible for any loss resulting from any such investments.

(b) Except as otherwise provided herein, including by Sections 403(b), 404(c) or 406 hereof, all income in excess of the requirements of the funds specified in paragraph (a) of this Section derived from the investment of money on deposit in any such *funds* shall be deposited in the following funds, in the order listed:

(i) the Debt Service Fund to the extent of the amounts required to be deposited in each to provide for the payments due on the next required payment date on the Bonds occurring within thirteen (13) months of the date of such deposit;

(ii) each Debt Service Reserve Account to the extent the amounts therein are then less than the Debt Service Reserve Requirement applicable thereto, *pro rata* in accordance with their respective Debt Service Reserve Requirements therefor; and

(iii) the balance, if any, in the Optional Redemption Fund or the Surplus Fund, in accordance with the Written Request of the Borrower;

provided, however, that excess income from the Capitalized Interest Account shall be used as required in the applicable Tax Certificates, if any.

(c) The Bond Trustee will not make any investment of any money in any fund or account held by it hereunder, or sell any investment held in any such fund or account, except on the following terms and conditions:

(i) Each such investment shall be made in the name of the Bond Trustee (in its capacity as such) or in the name of a nominee for the Bond Trustee under its complete and exclusive control;

(ii) The Bond Trustee shall have sole control over such investment, the income thereon, and the proceeds thereof;

(iii) Any certificate or instrument evidencing such investment shall be delivered to the Bond Trustee or its agent or securities depository; and

(iv) The proceeds of each sale of such an investment shall be remitted by the purchaser thereof directly to the Bond Trustee for deposit in the fund or account to which such investment was credited.

Section 409. Trust Funds. All money received by the Bond Trustee under the provisions of this Indenture shall be trust funds under the terms hereof for the benefit of all Bonds Outstanding hereunder and shall not be subject to lien or attachment of any creditor of the Issuer or the Borrower. Such money shall be held in trust and applied in accordance with the provisions of this Indenture. The Issuer shall be deemed to have fulfilled its obligation to establish the funds created by this Article IV upon the execution and delivery of this Indenture.

## ARTICLE V

### REDEMPTION OF BONDS

Section 501. Redemption of Bonds. Each series of Bonds shall be redeemable at the time or times, at the premiums, if any, and in the manner specified in the Supplemental Indenture authorizing the issuance of such Bonds.

Section 502. Cancellation. All Bonds which have been purchased and surrendered for cancellation or which have been redeemed shall be cancelled and cremated or otherwise destroyed by the Bond Trustee and shall not be reissued (except with respect to any Bonds purchased in lieu of redemption if and as provided in the Supplemental Indenture authorizing the issuance thereof) and a counterpart of the certificate of cremation or other destruction evidencing such cremation or other destruction shall be furnished by the Bond Trustee to the Issuer and the Borrower.

Section 503. Agent for Delivery. The Issuer hereby appoints the Bond Trustee as its agent for delivery of any Bond issued under this Indenture which is redeemed or prepaid.

## ARTICLE VI

### GENERAL COVENANTS

Section 601. Payment of Principal, Premium, if any, and Interest. Subject to the limited source of payment referred to in Section 202 hereof, the Issuer covenants that it will promptly pay the principal of, premium, if any, and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof. Nothing in the Bonds or in this Indenture shall be considered as assigning or pledging any funds or assets of the Issuer (except the money and the Loan Agreement (other than Unassigned Rights)) pledged under this Indenture.

Section 602. Legal Authorization; Right to Indemnity. The Issuer represents that it is duly authorized under the Constitution and laws of the State to issue the Bonds authorized hereby and to execute this Indenture and to assign the Loan Agreement and to pledge the payments thereunder and the other rights and assets herein pledged in the manner and to the extent herein set forth; that all action on its part required for execution and delivery of this Indenture has been duly and effectively taken (or for the issuance of the Bonds will be duly taken as provided therein); and that the Bonds in the hands of the owners thereof will be valid and enforceable obligations of the Issuer according to the import thereof. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings of its members pertaining thereto. However, the Issuer shall not be required to take any action not expressly provided for herein. Furthermore, the other provisions of this Indenture notwithstanding, the Issuer shall not be obligated to take any action or execute any document which might in its reasonable judgment involve it in any expense or liability unless it shall have been furnished with assurance of payment or reimbursement for any expense and with reasonable indemnity for liability of the Issuer, its incorporators, directors, officers and counsel.



Section 603. Ownership; Instruments of Further Assurance. The Issuer represents that it lawfully owns the Loan Agreement and that the pledge and assignment thereof and of the payments to be made thereunder hereby made are valid and lawful. The Issuer covenants that it will defend its interest in the Loan Agreement and the assignment thereof to the Bond Trustee, for the benefit of the Holders and owners of the Bonds, against the claims and demands of all persons whomsoever. The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Bond Trustee may reasonably require for better assuring, transferring, mortgaging, conveying, pledging, assigning and confirming unto the Bond Trustee, the Loan Agreement and all payments thereon and thereunder (except Unassigned Rights) and all other funds pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds.

Section 604. Books and Records. The Issuer covenants that so long as any Bonds are Outstanding and unpaid, to the extent of the amounts derived from the Loan Agreement, it will keep, or cause to be kept by the Bond Trustee, proper books of record and account. Such books shall at all times be open for any lawful purpose to the inspection of such accountants or other agencies as the Bond Trustee may from time to time designate.

Section 605. Rights Under the Loan Agreement. The Issuer agrees that the Bond Trustee in its own name or in the name of the Issuer may enforce all rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement for and on behalf of the Bondholders (other than the rights of the Issuer to decline to make additional loans and to issue Bonds and Unassigned Rights), whether or not the Issuer is in default hereunder.

Section 606. Designation of Additional Paying Agents. The Issuer may cause the necessary arrangements to be made through the Bond Trustee and to be thereafter continued for the designation of alternate Paying Agents, if any, and for the making available of funds hereunder for the payment of such of the Bonds as shall be presented when due at the designated corporate trust office of the Bond Trustee, or its successor in trust hereunder, or at the designated office of said alternate Paying Agents.

Section 607. Tax Exemption; Rebates. In order to maintain the exclusion from gross income for purposes of federal income taxation of interest on any Tax-Exempt Bonds, the Issuer shall comply with the provisions of the Code applicable to any Tax-Exempt Bonds, including without limitation the provisions of the Code relating to the computation of the yield on investments of the "gross proceeds" of Tax-Exempt Bonds, as such term is defined in the Code, and reporting of the earnings on such gross proceeds and rebates of earnings on such gross proceeds to the United States Department of the Treasury. All necessary computations of the yield on investments and of the amount required to be rebated to the United States Department Treasury shall be made by the Borrower at times and in amounts required by the Code. In furtherance of the foregoing, the Issuer shall comply with the provisions of any Tax Certificate applicable to each series of Tax-Exempt Bonds and with such written instructions as may be provided by Bond Counsel or a special tax counsel.

The Issuer shall not take any action or fail to take any action which would cause any Tax-Exempt Bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code; nor shall any part of the Proceeds of any Tax-Exempt Bonds or any other funds of the Issuer be used directly

or indirectly to acquire any securities or obligations the acquisition of which would cause any Tax-Exempt Bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code. The Issuer shall make any and all payments required to be made to the United States Department of the Treasury in connection with any Tax-Exempt Bonds pursuant to Section 148(f) of the Code to the extent that funds are made available therefor by the Borrower, pursuant to the Loan Agreement. The Issuer shall make any and all payments required by Section 148(f) of the Code to be made to the United States Department of the Treasury in connection with any Tax-Exempt Bonds to the extent that money is made available therefor by the Borrower pursuant to the Loan Agreement. The obligation of the Issuer to comply with the provisions of this Section with respect to the rebate to the Department of the Treasury of the United States of America relating to any Tax-Exempt Bonds shall remain in full force and effect so long as the Issuer shall be required by the Code to rebate such earnings on the gross proceeds of Tax-Exempt Bonds notwithstanding that any such Tax-Exempt Bonds are no longer Outstanding.

## ARTICLE VII

### EVENTS OF DEFAULT; REMEDIES

Section 701. Events of Default. Each of the following events is hereby declared an "event of default," that is to say, if:

(a) payment of any installment of interest payable on any of the Bonds shall not be made when the same shall become due and payable; or

(b) payment of the principal of or the premium, if any, payable on any of the Bonds shall not be made when the same shall become due and payable, either at maturity, by proceedings for redemption, through failure to make any payment to any fund hereunder or otherwise; or

(c) any event of default as defined in Section 8.1 of the Loan Agreement shall occur and be continuing from and after the date the Issuer is entitled under the Loan Agreement to declare the amount due thereunder to be immediately due and payable; or

(d) the Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Indenture or any agreement supplemental hereto to be performed on the part of the Issuer, and such default shall continue for the period of thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer and the Borrower by the Bond Trustee (or if such default cannot with due diligence and dispatch be wholly cured within thirty (30) days but can be wholly cured, the Issuer or the Borrower shall fail immediately upon receipt of such notice to commence with due diligence and dispatch the curing of such default or, having so commenced the curing of such default, shall thereafter fail to prosecute and complete the same with due diligence and dispatch); the Bond Trustee may give such notice in its discretion and shall give such notice at the written request of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding hereunder; provided, however, that if such default cannot with due diligence and dispatch be wholly cured within thirty (30) days but can be wholly cured, the failure of the Issuer to remedy such default within such thirty (30) day period shall not constitute a default hereunder if the Issuer shall immediately upon receipt of such

notice commence with due diligence and dispatch the curing of such default and, having so commenced the curing of such default, shall thereafter prosecute and complete the same with due diligence and dispatch; or

(e) the default by the Borrower in the performance of its covenant in Section [7.7] of the Loan Agreement relating to the discharge, vacating, bonding or stay of any order, writ or warrant of attachment, garnishment, execution, replevin or similar process filed against any part of the funds or accounts held by the Bond Trustee hereunder, such default being an event of default specified in Section [8.1(b)] of the Loan Agreement.

Section 702. Remedies; Rights of Bondholders. Upon the occurrence of any event of default, the Bond Trustee may, subject to its right to indemnification as provided in Section 801 hereof, pursue any available remedy including a suit at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the Bonds then Outstanding hereunder or to compel performance hereunder or under the Loan Agreement, or seek to enjoin any violation hereunder or thereunder; **provided, however**, that in no event may the principal of any Bonds be declared to be immediately due and payable upon the occurrence of an Event of Default hereunder.

If an event of default shall have occurred, and if it shall have been requested so to do by the Holders of not less than twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding and the Bond Trustee shall have been indemnified as provided in Section 801 hereof, the Bond Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Section as the Bond Trustee shall deem most expedient in the interests of the Holders of Bonds; provided, however, that the Bond Trustee shall have the right to decline to comply with any such request if the Bond Trustee shall be advised by counsel (who may be its own counsel) that the action so requested may not lawfully be taken or the Bond Trustee in good faith shall determine that such action would be unjustly prejudicial to the Holders of Bonds not parties to such request.

No remedy by the terms of this Indenture conferred upon or reserved to the Bond Trustee (or to the Holders of Bonds) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Bond Trustee or to the Holders of Bonds hereunder now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or event of default shall impair any such right or power or shall be construed to be a waiver of any such default or event of default, or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or event of default, hereunder, whether by the Bond Trustee or by the Holders of Bonds, shall extend to or shall affect any subsequent default or event of default or shall impair any rights or remedies consequent thereon.

Section 703. Direction of Proceedings by Bondholders. Upon compliance with Section 801(m) hereof, the Holders of a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Bond Trustee, to direct the method and place of conducting all proceedings to

be taken in connection with the enforcement of the terms and conditions of this Indenture, including the enforcement of the rights of the Issuer under the Loan Agreement or the appointment of a receiver or any other proceedings hereunder; provided, however, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture. For the avoidance of doubt, Bondholders cannot direct that the Bonds be accelerated.

Section 704. Appointment of Receivers. Upon the occurrence of an event of default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Bond Trustee and the Holders of Bonds under this Indenture, the Bond Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the rights and properties pledged hereunder and of the revenues, issues, payments and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 705. Application of Money. All money received by the Bond Trustee pursuant to any right given or action taken under the provisions of this Article shall, after any payments as may be required by Section 8.2(b) FIRST of the Loan Agreement, be deposited in the Revenue Fund and together with all money in the funds maintained by the Bond Trustee under Article III and IV (except money held for the payment of Bonds called for prepayment or redemption which have become due and payable) shall be applied as follows:

(a) All such money shall be applied:

First: To the payment to the Persons entitled thereto of all installments of interest then due on the Outstanding Bonds, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then ratably according to the amounts due on such installment, without any discrimination or privilege; and

Second: To the payment to the Persons entitled thereto of the unpaid principal of any of the Outstanding Bonds which shall have become due (other than Bonds called for redemption for the payment of which money is held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, then ratably according to the amount of principal due on such date, without any discrimination or privilege.

(b) If the principal of all the Outstanding Bonds shall have become due, all such money shall be applied to the payment of the principal and interest then due and unpaid on the Bonds, which payment shall, except as otherwise provided in Section 712 hereof and other than with respect to Bonds called for redemption for which money is held pursuant to the provisions of this Indenture, be without preference or priority of principal or interest over the other, or of any installment of interest over any other installment of interest, ratably according to the amounts due respectively for principal and interest, to the Persons entitled thereto without any discrimination or privilege.

Whenever money is to be applied by the Bond Trustee pursuant to the provisions of this Section, such money shall be applied by it at such times, and from time to time, as the Bond Trustee shall determine, having due regard for the amount of such money available for application and the likelihood of additional money becoming available for such application in the future. Whenever the

Bond Trustee shall apply such money, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable, or, with respect to payments of Defaulted Interest, shall be such date as is required by Section 206 hereof) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Bond Trustee shall give such notice as it may deem appropriate of the deposit with it of any such money and of the fixing of any such date and of the Special Record Date by mailing a copy of such notice by first class mail to the registered owners of the Bonds, at least ten days prior to the Special Record Date. The Bond Trustee shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Bond Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever all Bonds and interest thereon have been paid under the provisions of this Section and all expenses and charges of the Bond Trustee have been paid, any balance remaining shall be paid to the Persons entitled to receive the same; if no other Person shall be entitled thereto, then the balance shall be paid to the Borrower.

Section 706. Remedies Vested in Bond Trustee. All rights of action including the right to file proof of claims under this Indenture or under any of the Bonds may be enforced by the Bond Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto and any such suit or proceeding instituted by the Bond Trustee shall be brought in its name as Bond Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery of judgment shall be, except as otherwise provided in Section 712 hereof, for the equal benefit of the Holders of the Outstanding Bonds.

Section 707. Rights and Remedies of Bondholders. No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless a default shall have become an event of default and the Holders of twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding shall have made written request to the Bond Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and unless also they have offered to the Bond Trustee indemnity as provided in Section 801(m), and unless the Bond Trustee shall thereafter fail or refuse to exercise the power hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every case at the option of the Bond Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by any action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Holders of all Bonds Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Holder to enforce the payment of the principal of and interest on any Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal of and interest on each of the Bonds issued hereunder to the respective Holders thereof at the time and place, from the source and in the manner in said

Bonds expressed. Notwithstanding the above, no provision herein shall permit a Bondholder or the Bond Trustee to cause the principal of any Bonds to be declared to be immediately due and payable upon the occurrence of an Event of Default hereunder.

Section 708. Termination of Proceedings. In case the Bond Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Bond Trustee, then and in every case the Issuer and the Bond Trustee shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder with respect to the property pledged and assigned hereunder, and all rights, remedies and powers of the Bond Trustee shall continue as if no such proceedings had been taken.

Section 709. Waiver of Events of Default. The Bond Trustee may in its discretion waive any event of default hereunder and its consequences and may rescind any declaration of maturity of principal, and shall do so upon written request of the Holders of (1) at least a majority in aggregate principal amount of all the Outstanding Bonds in respect of which default in the payment of principal and/or interest exists, or (2) at least a majority in aggregate principal amount of all the Outstanding Bonds in the case of any other event of default; provided, however, that there shall not be waived (a) any event of default in the payment of the principal of any Outstanding Bonds when due whether by mandatory Sinking Fund Redemption or at the dates of maturity specified therein or (b) any default in the payment when due of the interest on any such Bonds, unless prior to such waiver or rescission all arrears of interest, with interest thereon (to the extent permitted by law) at the rate borne by the Bonds in respect of which such default shall have occurred on overdue installments of interest or all arrears of payments of principal when due, as the case may be, and all expenses of the Bond Trustee and any Paying Agent in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission or in case any proceeding taken by the Bond Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Bond Trustee and the Bondholders shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 710. Borrower's Rights of Possession and Use of Its Property. Whether or not the Borrower is in full compliance with the terms and provisions of the Loan Agreement or an event of default hereunder shall have occurred and be continuing, none of the Issuer, the Bond Trustee, the holders of Bonds or any receiver appointed pursuant to Section 704 hereof shall be permitted to possess, use or control the Borrower's Property and appurtenances thereto, which at all times shall be free of claims of the Issuer, the Bond Trustee, the Holders of Bonds and any such receiver.

Section 711. Notice of Default. In the event of any default hereunder, the Bond Trustee will promptly give written notice thereof to the Issuer and the Borrower setting forth the nature of such default.

Section 712. Extension of Payment: Penalty. In case the time for the payment of principal or of the interest on any Bonds shall be extended, whether or not such extension be by or with the consent of the Issuer, such principal or such interest so extended shall not be entitled in case of default hereunder to the benefit or security of this Indenture except subject to the prior payment in

full of the principal of all Bonds then Outstanding and of all interest thereon, the time for the payment of which shall not have been extended.

## ARTICLE VIII

### THE BOND TRUSTEE

Section 801. Acceptance of the Trusts. The Bond Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Bond Trustee, prior to the occurrence of an event of default and after the curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants shall be read into this Indenture against the Bond Trustee. In case an event of default has occurred (which has not been cured or waived), the Bond Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in the exercise of such rights and powers as an ordinary, prudent man would exercise or use in the conduct of his own affairs.

(b) The Bond Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers, or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to advice of counsel concerning all matters of trusts hereof and duties hereunder, and may in all cases pay such reasonable compensation to any attorney, agent, receiver or employee retained or employed by it in connection herewith. The Bond Trustee may act upon the opinion or advice of an attorney, surveyor, engineer or accountant selected by it in the exercise of reasonable care or, if selected or retained by the Issuer or the Borrower, approved by the Bond Trustee in the exercise of such care. The Bond Trustee shall not be responsible for any loss or damage resulting from any action or nonaction based on its good faith reliance upon such opinion or advice.

(c) The Bond Trustee shall not be responsible for any recital herein, or in the Bonds (except with respect to the certificate of the Bond Trustee endorsed on the Bonds), or for the investment of money as herein permitted as directed by the Issuer (except that no investment shall be made except in compliance with Section 408 hereof), or for the recording or re-recording, filing or re-filing of this Indenture, or any supplement or amendment hereto, or for the validity of the execution by the Issuer of this Indenture, or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value or title of the property herein conveyed or otherwise as to the maintenance of the security hereof. The Bond Trustee may (but shall be under no duty to) require of the Issuer and the Borrower full information and advice as to the performance of the covenants, conditions and agreements in the Loan Agreement and shall make its best efforts, but without any obligation, to advise the Issuer and the Borrower of any impending default known to the Bond Trustee. Except as otherwise provided in Section 703 hereof, the Bond Trustee shall have no obligation to perform any of the duties of the Issuer under the Loan Agreement.

(d) The Bond Trustee shall not be accountable for the use or application by the Issuer or the Borrower of any of the Bonds or the Proceeds thereof or for the use or application of any money

paid over by the Bond Trustee in accordance with the provisions of this Indenture or for the use and application of money received by any Paying Agent. The Bond Trustee may become the owner of Bonds secured hereby with the same rights it would have if not Bond Trustee.

(e) The Bond Trustee shall be protected in acting upon any notice, order, requisition, request, consent, certificate, order, opinion (including an opinion of Independent Counsel), affidavit, letter, telegram or other paper or document in good faith deemed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Bond Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Bond, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(f) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Bond Trustee shall be entitled to rely upon a certificate signed on behalf of the Issuer by its President, Chair, Vice Chair, Secretary or Assistant Secretary as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which the Bond Trustee has been notified as provided in paragraph (h) of this Section, or of which by said paragraph it is deemed to have notice, may accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Bond Trustee may accept a certificate of the President, Chair, Vice Chair, Secretary or Assistant Secretary of the Issuer to the effect that a resolution in the form therein set forth has been adopted by the Issuer as conclusive evidence that such resolution has been duly adopted, and is in full force and effect.

(g) The permissive right of the Bond Trustee to do things enumerated in this Indenture shall not be construed as a duty and the Bond Trustee shall not be answerable for other than its gross negligence or willful default.

(h) The Bond Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the Issuer to cause to be made any of the payments to the Bond Trustee required to be made by Article IV unless the Bond Trustee shall be specifically notified in writing of such default by the Issuer or by any Holder of any Bond then Outstanding and all notices or other instruments required by this Indenture to be delivered to the Bond Trustee must, in order to be effective, be delivered at the corporate trust office of the Bond Trustee, and in the absence of such notice so delivered the Bond Trustee may conclusively assume there is no default except as aforesaid.

(i) The Bond Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or nonfulfillment of contracts during any period in which it may be in possession of or managing any Property constituting the Project.

(j) At any and all reasonable times, the Bond Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect



any and all books, papers and records of the Issuer pertaining to the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(k) The Bond Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(l) Notwithstanding anything elsewhere in this Indenture contained, the Bond Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any money, the release of any Property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Bond Trustee deemed reasonably necessary for the purpose of establishing the right of the Issuer to the authentication of any Bonds, the withdrawal of any money, the release of any Property or the taking of any other action by the Bond Trustee.

(m) Before taking any action under this Article VIII hereof the Bond Trustee may require that a satisfactory security or an indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability.

(n) All money received by the Bond Trustee or any Paying Agent shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law or by this Indenture. Neither the Bond Trustee nor any Paying Agent shall be under any liability for interest on any money received hereunder except such as may be agreed upon.

(o) The Bond Trustee agrees that it will file all continuation statements in such manner and in such places as may be required by law in order to continue any security interest of the Holders of the Bonds and the rights of the Bond Trustee with respect to each financing statement originally filed in connection with the issuance of the Series 2021 Bonds in the jurisdictions where the original financing statements were filed, if any. The Bond Trustee shall have no responsibility for determining the jurisdictions or the filing requirements to establish perfection of any financing statement proposed to be filed in connection with the issuance of the Series 2021 Bonds.

Section 802. Fees, Charges and Expenses of Bond Trustee and any Additional Paying Agent. The Bond Trustee shall be entitled to payment and/or reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Bond Trustee in connection with such services. The Bond Trustee shall be entitled to payment and/or reimbursement for the reasonable fees and charges of the Bond Trustee as Paying Agent and Bond Registrar for the Bonds as hereinabove provided. Any additional Paying Agent shall be entitled to payment and reimbursement for its reasonable fees and charges as additional Paying Agent for the Bonds. Upon an event of default, but only upon an event of default, the Bond Trustee and any additional Paying Agent shall have a right of payment prior to payment on account of interest or principal of, or premium, if any, on any Bond for the foregoing advances, fees, costs and expenses incurred.

Section 803. Notice to Bondholders if Default Occurs. If a default occurs of which the Bond Trustee is by paragraph (h) of Section 801 hereof required to take notice or if notice of default

be given as in said paragraph (h) provided, then the Bond Trustee shall give written notice thereof by mail to the last known owners of all Bonds then Outstanding shown by the Bond Register; provided, however, that if an event of default occurs (other than an event of default under Sections 701(a) and 701(b)) the Bond Trustee may withhold such notice if, in the judgment of the Bond Trustee, such withholding is in the interests of the owners of the Bonds.

Section 804. Intervention by Bond Trustee. In any judicial proceeding to which the Issuer is a party and which in the opinion of the Bond Trustee and its counsel has a substantial bearing on the interests of owners of the Bonds, the Bond Trustee may intervene on behalf of Bondholders and, subject to the provisions of Section 801(a) and Section 801(m), shall do so if requested in writing by the owners of at least twenty-five percent (25%) in aggregate principal amount of all Bonds then Outstanding. The rights and obligations of the Bond Trustee under this Section are subject to the approval of a court of competent jurisdiction.

Section 805. Successor Bond Trustee. Any corporation, association or other entity into which the Bond Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation, association or other entity resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, provided such corporation or association is otherwise eligible under Section 806 hereof, shall be and become successor Bond Trustee hereunder and vested with all of the title to the whole property or Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 806. Bond Trustee Required; Eligibility. There shall at all times be a Bond Trustee hereunder which shall be a bank or trust company organized under the laws of the United States of America, the State of Tennessee, or any other state authorized to exercise corporate trust powers, subject to supervision or examination by federal or state authorities, and having a reported combined capital and surplus of not less than \$100,000,000. If at any time the Bond Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner provided in Section 807 hereof. No resignation or removal of the Bond Trustee and no appointment of a successor Bond Trustee shall become effective until the successor Bond Trustee has accepted its appointment under Section 810 hereof.

Section 807. Resignation by the Bond Trustee. The Bond Trustee and any successor Bond Trustee may at any time resign from the trusts hereby created by giving written notice to the Issuer and the Borrower and by registered or certified mail to each registered owner of Bonds then Outstanding. Such notice to the Issuer and the Borrower may be served personally or sent by registered or certified mail.

Section 808. Removal of the Bond Trustee. The Bond Trustee may be removed at any time, by an instrument or concurrent instruments in writing delivered to the Bond Trustee and to the Issuer and signed by the owners of a majority in aggregate principal amount of the Bonds then Outstanding. So long as no event of default has occurred and is continuing under this Indenture or the Loan Agreement and no event shall have occurred which with the passage of time or the giving of notice or both would become an event of default under this Indenture or the Loan Agreement,

the Bond Trustee may be removed at any time by an instrument in writing signed by the Issuer and delivered to the Bond Trustee. The foregoing notwithstanding, the Bond Trustee may not be removed by the Issuer unless written notice of the delivery of such instrument or instruments signed by the Issuer is mailed to the owners of all Bonds Outstanding under this Indenture, which notice indicates the Bond Trustee will be removed and replaced by the successor trustee named in such notice (which successor trustee must be consented to by the Issuer), such removal and replacement to become effective on the 90th day next succeeding the date of such notice, unless the owners of not less than ten percent (10%) in aggregate principal amount of the Bonds then Outstanding under this Indenture shall object in writing to such removal and replacement. Such notice shall be mailed by first class mail postage prepaid to the owners of all Bonds then Outstanding at the address of such owners then shown on the Bond Register.

Section 809. Appointment of Successor Bond Trustee by the Bondholders; Temporary Bond Trustee. In case the Bond Trustee hereunder shall resign or be removed, or be dissolved, or shall be in the process of dissolution or liquidation, or otherwise becomes incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed, with the consent of the Issuer, by the owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing signed by such owners, or by their attorneys in fact, duly authorized; provided, however, that in case of such vacancy the Issuer by an instrument executed and signed by its President, Chair, Vice Chair or other authorized officer of the Issuer, may appoint a temporary Bond Trustee to fill such vacancy until a successor Bond Trustee shall be appointed by the Bondholders in the manner above provided; provided, further, that if no permanent successor Bond Trustee shall have been appointed by the Bondholders within the six calendar months next succeeding the month during which the Issuer appoints such a temporary Bond Trustee, such temporary Bond Trustee shall without any further action on the part of the Issuer or the Bondholders become the permanent successor Bond Trustee. The foregoing notwithstanding, any such temporary Bond Trustee so appointed by the Issuer shall immediately and without further act be superseded by any successor Bond Trustee so appointed by such Bondholders within the six calendar months next succeeding the month during which such temporary Bond Trustee is appointed.

Section 810. Concerning Any Successor Bond Trustees. Every successor Bond Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the Written Request of the Issuer, or of its successor, execute and deliver an instrument transferring to such successor Bond Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Bond Trustee shall deliver all securities and money held by it as Bond Trustee hereunder to its successors. Should any instrument in writing from the Issuer be required by any successor Bond Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Bond Trustee and the instrument or instruments removing any Bond Trustee and appointing a successor hereunder, together with all other

instruments provided for in this Article shall be filed and/or recorded by the successor Bond Trustee in each recording office, if any, where this Indenture shall have been filed and/or recorded.

Section 811. Bond Trustee Protected in Relying Upon Resolution, Etc. The resolutions, opinions, certificates and other instruments provided for in this Indenture may be accepted by the Bond Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Bond Trustee for the release of property and the withdrawal of money hereunder.

Section 812. Bond Trustee as Paying Agent and Registrar. The Bond Trustee is hereby designated and agrees to act as principal Paying Agent and Bond Registrar for and in respect to the Bonds.

Section 813. Successor Bond Trustee as Trustee of Funds, Paying Agent and Bond Registrar. In the event of a change in the office of Bond Trustee, the predecessor Bond Trustee which has resigned or been removed shall cease to be trustee of the Revenue Fund, Debt Service Fund, Debt Service Reserve Fund, Optional Redemption Fund, Construction Fund, Surplus Fund, Costs of Issuance Fund, Expense Fund and any other funds provided hereunder and Bond Registrar and Paying Agent for principal of, premium, if any, and interest on the Bonds, and the successor Bond Trustee shall become such Bond Trustee, Bond Registrar and Paying Agent unless a separate Paying Agent or Agents are appointed by the Issuer in connection with the appointment of any successor Bond Trustee.

Section 814. Required Bond Trustee Reports. The Bond Trustee shall deliver a report to the Issuer, the Borrower and the State of Tennessee thirty days following the end of each calendar quarter (March 31, June 30, September 30 and December 31) detailing the following information for the prior calendar quarter, or more frequently with respect to any shorter period: a statement of all funds (including investments thereof) held by such Bond Trustee and the Issuer pursuant to the provisions hereof; a statement of all payments made by the Borrower pursuant to the Loan Agreement collected in connection herewith.

Section 815. List of Bondholders. The Bond Trustee, in its capacity as Bond Registrar, shall keep on file at its office the Bond Register. At reasonable times and under reasonable regulations established by the Bond Registrar, said Bond Register may be inspected and copied by the Borrower, the Issuer or the authorized representative of any Holder or Holders of ten percent or more in principal amount of the Bonds Outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Bond Registrar.

## ARTICLE IX

### SUPPLEMENTAL INDENTURES

Section 901. Supplemental Indentures Not Requiring Consent of Bondholders. The Issuer and the Bond Trustee may, without the consent of, or notice to, any of the Bondholders, enter into a Supplemental Indenture or Supplemental Indentures, as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Indenture;
- (b) to grant to or confer upon the Bond Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholders and the Bond Trustee, or either of them;
- (c) to assign and pledge under this Indenture additional revenues, properties or collateral;
- (d) to evidence the appointment of a separate co-trustee or the succession of a new trustee hereunder;
- (e) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification of this Indenture under the Trust Indenture Act of 1939, as then amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of any state of the United States of America;
- (f) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the issuance of coupon bonds of any series hereunder and to permit the exchange of Bonds from registered form to coupon form and vice versa;
- (g) to provide for the refunding of any Bonds including the right to establish and administer an escrow fund and take related action in connection therewith, but solely in the manner and upon satisfaction of the conditions contained in Article XI hereof;
- (h) to provide for Bond debt service reserves as provided by Section 404 hereof;
- (i) to provide for the issuance of Bonds to the extent permitted by this Indenture; and
- (j) to make any other change that, in the judgment of the Bond Trustee, does not materially adversely affect the rights of any Bondholders.

The Issuer and the Bond Trustee may not enter into a Supplemental Indenture pursuant to paragraph (f) of this Section unless they shall have received an opinion of Bond Counsel to the effect that the issuance of coupon Bonds will not adversely affect the validity of such Bonds or the exclusion, if any, of the interest thereon from gross income for purposes of federal income taxation.

Section 902. Supplemental Indentures Requiring Consent of Bondholders. In addition to Supplemental Indentures covered by Section 901 hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Holders of not less than a majority in aggregate principal amount of the Bonds which are Outstanding hereunder at the time of the execution of such Supplemental Indenture, or, in the case that less than all of the several series of Bonds Outstanding are affected thereby, the Holders of not less than a majority in aggregate principal amount of the Bonds of each series so affected which are Outstanding at the time of such execution, shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Bond Trustee of such Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the

terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that if such modification, alteration, amendment or addition will, by its terms, not take effect so long as any Bonds of a specified series remain Outstanding, the consent of the Holders of such Bonds shall not be required; provided, further, that nothing in this Section contained shall permit, or be construed as permitting, a Supplemental Indenture to effect: (a) an extension of the stated maturity or reduction in the principal amount of, or reduction in the rate or extension of the time of paying of interest on, or reduction of any premium payable on the redemption of, any Bonds, without the consent of the Holders of such Bonds; (b) a reduction in the amount or extension of the time of any payment required to be made to or from the Debt Service Fund or any interest or Sinking Fund Redemption applicable to any Bonds without consent of the Holders of such Bonds; (c) the creation of any Lien prior to or on a parity with the lien of this Indenture, without the consent of the Holders of all the Bonds at the time Outstanding; (d) a reduction in the aforesaid aggregate principal amount of Bonds the Holders of which are required to consent to any such Supplemental Indenture or any action permitted by Section 709 hereof, without the consent of the Holders of all the Bonds at the time Outstanding which would be affected by the action to be taken; or (e) a modification of the rights, duties or immunities of the Bond Trustee, without the written consent of the Bond Trustee. Holders of Bonds issued at the time of the execution of any amendatory Supplemental Indenture or thereafter may be deemed to have consented to any amendment described in such amendatory Supplemental Indenture if so provided by the Supplemental Indenture authorizing the issuance thereof.

If at any time the Issuer shall request the Bond Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Bond Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such Supplemental Indenture to be sent to each Holder of Bonds affected thereby as shown on the Bond Register. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the principal corporate trust office of the Bond Trustee for inspection by all Bondholders. The Bond Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to give such notice to such Bondholder or a defect in the notice given to such Bondholder, and any such failure or defect as to any Bondholder shall not affect the validity of such Supplemental Indenture when consented to and approved as provided in this Section. If the Holders of the requisite principal amount of Bonds which are Outstanding hereunder at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Bond Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such Supplemental Indenture as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

Section 903. Supplemental Indentures Generally. Anything herein to the contrary notwithstanding, so long as the Borrower is not in default under the Loan Agreement, a Supplemental Indenture under this Article IX which adversely affects the rights of the Borrower under the Loan Agreement shall not become effective unless and until the Borrower shall have consented in writing to the execution and delivery of such Supplemental Indenture. In this regard, the Bond Trustee shall cause notice of the proposed execution and delivery of any such

Supplemental Indenture to which the Borrower has not already consented, together with a copy of the proposed Supplemental Indenture and a written consent form to be signed by the Borrower, to be mailed by certified or registered mail to the Borrower at least thirty days prior to the proposed date of execution and delivery of any such Supplemental Indenture.

Before the Issuer and the Bond Trustee enter into any supplement to this Indenture, the Issuer or the Bond Trustee may request that the Borrower deliver to the Bond Trustee and the Issuer an Opinion of Bond Counsel to the effect that (i) such supplement is authorized or permitted by the Act and is authorized under this Indenture, (ii) such supplement to this Indenture will, upon the execution and delivery thereof, be valid, binding and enforceable in accordance with its terms, and (iii) such supplement will not adversely affect the exclusion from gross income of the interest on any Tax-Exempt Bond for purposes of federal income taxation of the Holder of any Tax-Exempt Bond.

## ARTICLE X

### AMENDMENTS TO THE LOAN AGREEMENT

Section 1001. Amendments, Etc. Not Requiring Consent. The Issuer, the Borrower and the Bond Trustee may, without the consent of or notice to the Holders of the Bonds, consent to any amendment, change or modification of the Loan Agreement as may be required or permitted (i) by the provisions of this Indenture or the Loan Agreement, (ii) for the purpose of curing any ambiguity or formal defect or omission, (iii) to provide for the issuance of Bonds as provided in Section 207 or 208 hereof, or (iv) in connection with any other change therein which, in the judgment of the Bond Trustee, is not to the prejudice of the Bond Trustee or, in the case of an amendment to the Loan Agreement, the Holders of the Outstanding Bonds.

Section 1002. Amendments, Etc. Requiring Consent of Bondholders. Except for the amendments, changes or modifications as provided in Section 1001 hereof, neither the Issuer nor the Bond Trustee shall consent to any other amendment, change or modification of the Loan Agreement without the written approval or consent, given and procured as in this Section provided, of the Holders of not less than a majority in aggregate principal amount of the Bonds which are Outstanding hereunder at the time of execution of any such amendment, change or modification, or in case less than all of the several series of Bonds then Outstanding are affected thereby, the Holders of not less than a majority in aggregate principal amount of the Bonds of each series so affected which are Outstanding hereunder at the time of execution of any such amendment, change or modification; provided, however, that if such amendment, change or modification will, by its terms, not take effect so long as any Bonds of a specified series remain Outstanding, the consent of the Holders of such Bonds shall not be required. If at any time the Issuer and the Borrower shall request the consent of the Bond Trustee to any such proposed amendment, change or modification of the Loan Agreement, the Bond Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided by Section 902 hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal corporate trust office of the Bond Trustee for inspection by all Bondholders. The Bond Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to give such notice

to such Bondholder or a defect in the notice given to such Bondholder, and any such failure or defect as to any Bondholder shall not affect the validity of such amendment, change or modification when consented to and approved as provided in this Section. If the Holders of not less than a majority in aggregate principal amount of the Bonds Outstanding hereunder at the time of the execution of any such amendment, change or modification of the Loan Agreement Loan Agreement (or, in either case, the Holders of not less than a majority in aggregate principal amount of the Bonds of each series so affected then Outstanding, as the case may be) shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Borrower, the Bond Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof.

Section 1003. No Amendment May Alter Borrower Payments. Under no circumstances shall any amendment to the Loan Agreement alter the amount or delay the time of payments required to be made by the Borrower thereunder on account of the principal, premium, if any, and interest on the Bonds without the consent of the Holders of all the Outstanding Bonds.

Section 1004. Bond Counsel Opinion. Before the Issuer and Bond Trustee consent to any amendment to the Loan Agreement, the Issuer or the Bond Trustee may request that the Borrower deliver to the Bond Trustee and the Issuer an Opinion of Bond Counsel to the effect that such amendment is authorized or permitted by the Act and this Indenture, and that such amendment will, upon the execution and delivery thereof, be valid, binding and enforceable in accordance with its terms.

## ARTICLE XI

### SATISFACTION OF THIS INDENTURE

Section 1101. Defeasance. If the Issuer shall pay or provide for the payment of the entire indebtedness on all Bonds Outstanding in any one or more of the following ways:

(a) by paying or causing to be paid the principal of (including redemption premium, if any) and interest on all Bonds Outstanding, as and when the same become due and payable;

(b) by depositing with the Bond Trustee, in trust, at or before maturity, money in an amount sufficient to pay or redeem (when redeemable) all Bonds Outstanding (including the payment of premium, if any, and interest payable on such Bonds to the maturity or redemption date thereof), provided that such money, if invested, shall be invested in Escrow Obligations in an amount, without consideration of any income or increment to accrue thereon, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds Outstanding at or before their respective maturity dates; it being understood that the investment income on such Escrow Obligations may be used by or for the benefit of the Borrower for any other purpose under the Act provided that the Bond Trustee shall be permitted to rely upon a verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit;



(c) addition to that by the terms hereof required as a condition of such action by the Bond Trustee

(d) by depositing with the Bond Trustee, in trust, Escrow Obligations in such amount as the Bond Trustee shall determine will, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, and with any money so deposited which is to remain uninvested, be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds Outstanding at or before their respective maturity dates, provided that the Bond Trustee shall be permitted to rely upon an independent certified public accountant's or financial analyst's verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit;

and if the Issuer shall pay or cause to be paid all other sums payable hereunder by the Issuer, this Indenture and the estate and rights granted hereunder shall cease, determine, and become null and void, and thereupon the Bond Trustee shall, upon Written Request of the Issuer, and upon receipt by the Bond Trustee of a Borrower Officer's Certificate and an Opinion of Counsel, each stating that in the opinion of the signers all conditions precedent to the satisfaction and discharge of this Indenture have been complied with, forthwith execute proper instruments acknowledging satisfaction of and discharging this Indenture and the lien hereof. The satisfaction and discharge of this Indenture shall be without prejudice to the rights of the Bond Trustee to charge and be reimbursed by the Issuer and the Borrower for any expenditures which it may thereafter incur in connection herewith.

Any money, funds, securities, or other property remaining on deposit in the Revenue Fund, Debt Service Fund, Debt Service Reserve Fund, Optional Redemption Fund, Construction Fund, Surplus Fund, Costs of Issuance Fund, Expense Fund or in any other fund or investment under this Indenture (other than said Escrow Obligations or other money deposited in trust as above provided) may be deposited with the Bond Trustee pursuant to paragraph (b) or (d) of this Section, upon the Written Request of the Borrower, and, upon the full satisfaction of this Indenture, shall forthwith be transferred, paid over and distributed to the Borrower, for return to the State as required by the Tourism Development Financing Act to the extent of TDZ Revenues.

The Issuer or the Borrower may at any time surrender to the Bond Trustee for cancellation by it any Bonds previously authenticated and delivered, which the Issuer or the Borrower may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

Section 1102. Liability of Issuer Not Discharged. Upon the deposit with the Bond Trustee, in trust, at or before maturity, of money or Escrow Obligations in the necessary amount to pay or redeem all Outstanding Bonds (whether upon or prior to their maturity or the redemption date of such Bonds) and compliance with the other payment requirements of Section 1101 hereof, provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article V herein provided, or irrevocable instructions to redeem such Bonds shall have been given and provisions satisfactory to the Bond Trustee shall have been made for the giving of such notice, this Indenture may be discharged in accordance with the provisions hereof but the liability of the Issuer upon the Bonds shall continue provided that the Holders thereof shall

thereafter be entitled to payment only out of the money or the Escrow Obligations deposited with the Bond Trustee as aforesaid.

Section 1103. Provision for Payment of a Particular Series of Bonds or any Portion Thereof. If the Issuer shall pay or provide for the payment of the entire indebtedness on all Bonds of a particular series, or any portion of a particular series, in any one or more of the following ways:

(a) by paying or causing to be paid the principal of (including premium, if any) and interest on all Bonds of such series Outstanding or any such portion thereof, as and when the same shall become due and payable;

(b) by depositing with the Bond Trustee, in trust, at or before maturity, money in an amount sufficient to pay or redeem (when redeemable) all Bonds of such series Outstanding or any such portion thereof (including the payment of premium, if any, and interest payable on such Bonds to the maturity or redemption date thereof), provided that such money, if invested, shall be invested in Escrow Obligations in an amount, without consideration of any income or increment to accrue thereon, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds of such series Outstanding or any such portion thereof at or before their respective maturity dates; it being understood that the investment income on such Escrow Obligations may be used by or for the benefit of the Borrower for any other purpose under the Act provided that the Bond Trustee shall be permitted to rely upon an independent certified public accountant's or financial analyst's verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit;

(c) by delivering to the Bond Trustee, for cancellation by it, all Bonds of such series Outstanding or any such portion thereof; or

(d) by depositing with the Bond Trustee, in trust, Escrow Obligations in such amount as the Bond Trustee shall determine will, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, and with any money so deposited which is to remain uninvested, be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds of such series or any such portion thereof at or before their respective maturity dates, provided that the Bond Trustee shall be permitted to rely upon an independent certified public accountant's or financial analyst's verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit;

and if the Issuer shall also pay or cause to be paid all other sums payable hereunder by the Issuer with respect to such series of Bonds or any such portion thereof, and, if such Bonds of such series or any such portion thereof are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article V of this Indenture provided or provisions satisfactory to the Bond Trustee shall have been made for the giving of such notice, such Bonds shall cease to be entitled to any lien, benefit or security under this Indenture. The liability of the Issuer in respect of such Bonds shall continue but the Holders thereof shall thereafter be entitled to payment (to the exclusion of all other Bondholders) only out of the money or Escrow Obligations deposited with the Bond Trustee as aforesaid.

## ARTICLE XII

### MANNER OF EVIDENCING OWNERSHIP OF BONDS

Section 1201. Proof of Ownership. Any request, direction, consent or other instrument provided by this Indenture to be signed and executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such request, direction or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture and shall be conclusive in favor of the Bond Trustee and the Issuer, with regard to any action taken by them, or either of them, under such request or other instrument, namely:

(a) the fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments in such jurisdiction, that the person signing such writing acknowledged before him the execution thereof, or by the affidavit of a witness of such execution; and

(b) the ownership of Bonds and the amounts and registration numbers of such Bonds and the date of holding the same shall be proved by the Bond Register.

Any action taken or suffered by the Bond Trustee pursuant to any provision of this Indenture, upon the request or with the assent of any person who at the time is the Holder of any Bond or Bonds, shall be conclusive and binding upon all future Holders of the same Bond or Bonds.

## ARTICLE XIII

### MISCELLANEOUS

Section 1301. Limitation of Rights; Borrower as Third-Party Beneficiary. With the exception of rights expressly conferred by this Section, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person other than the parties hereto, the Holders of the Bonds and the Borrower, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Holders of the Bonds as herein provided. Notwithstanding the foregoing, to the extent that this Indenture specifically grants certain rights to the Borrower, the Borrower may enforce such rights as a third-party beneficiary.

Section 1302. Unclaimed Money. Any money deposited with the Bond Trustee by the Issuer in order to redeem or pay any Bond in accordance with the provisions of this Indenture which remain unclaimed by the Holders of the Bond for four years after the redemption or maturity date, as the case may be, shall, if the Issuer is not at the time, to the knowledge of the Bond Trustee, in default with respect to any of the terms and conditions of this Indenture or the Bonds, be paid by the Bond Trustee to the Borrower upon its written request therefor; and thereafter the Holders of the Bond shall be entitled to look only to the Borrower for payment thereof. Such money may be

invested in accordance with Section 406 hereof if the Borrower makes arrangements satisfactory to the Bond Trustee to indemnify the Bond Trustee for any costs which it may incur due to the unavailability of money due to such investment. Investment income on any such unclaimed money received by the Bond Trustee shall be deposited as provided in Section 408 hereof until the final maturity or redemption date of the Bonds. Any such income generated after such date shall be deemed to be unclaimed money of the type referred to in the first sentence of this Section and shall be disposed of in accordance with such sentence. The Issuer hereby covenants and agrees to indemnify and save the Bond Trustee harmless from any and all loss, costs, liability and expense suffered or incurred by the Bond Trustee by reason of having returned any such money to the Issuer as herein provided.

Section 1303. Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or Sections in this Indenture contained, shall not affect the remaining portions of this Indenture, or any part thereof.

Section 1304. Notices. Except as otherwise provided in this Indenture, it shall be sufficient service of any notice, request, complaint, demand or other paper on the following parties if the same shall be duly mailed by registered or certified mail and addressed as follows:

To the Issuer:

Economic Development Growth Engine  
Industrial Development Board of the  
City of Memphis and County of Shelby, Tennessee  
100 Peabody Place, Suite 1100  
Memphis, Tennessee 38103  
Attention: President

With a copy to:

Farris Bobango Branan PLC  
999 S. Shady Grove Road, Suite 500  
Memphis, Tennessee 38120  
Attention: Stephen L. Anderson, Esq.

To the Bond Trustee:

Regions Bank  
Corporate Trust Services  
150 Fourth Avenue North, Suite 1500  
Nashville, Tennessee 37219

Attention: Corporate Trust Services

To the Borrower:

City of Memphis, Tennessee  
125 North Main Street, Room 368  
Memphis, Tennessee 38103  
|Attention: Chief Financial Officer/Director of Finance

With a copy to:

City of Memphis, Tennessee  
125 North Main Street, Room 336  
Memphis, Tennessee 38103  
Attention: Chief Legal Officer/City Attorney

To the State of Tennessee:

Department of Finance and Administration  
State of Tennessee  
Tennessee Tower, 18th Floor  
312 Rosa L. Parks Avenue  
Nashville, Tennessee 37243

With a copy to:

State of Tennessee  
Comptroller of the Treasury  
Division of State Government Finance  
Cordell Hull Building  
425 Rep. John Lewis Way N.  
Nashville, TN 37243-3400

Section 1305. Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 1306. Applicable Law. This Indenture shall be governed exclusively by the applicable laws of the State of Tennessee.

Section 1307. Immunity of Officers, Employees and Members of Issuer. No recourse shall be had for the payment of the principal of or premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained against any past, present or future officer, director, member, employee or agent of the Issuer, or of any successor public corporation, as such, either directly or through the Issuer or any successor public corporation, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, members, employees or agents as such is hereby expressly waived and released as a condition of

and consideration for the execution of this Indenture and the issuance of such Bonds. Notwithstanding any other provision of this Indenture, the Issuer shall not be liable to any person for any failure of the Issuer to take action under this Indenture unless the Issuer (a) is requested in writing by an appropriate person to take such action, (b) is assured of payment of, or reimbursement for, any reasonable expenses in connection with such action, and (c) is afforded, under the existing circumstances, a reasonable period to take such action and reasonable indemnity for taking such action.

Section 1308. Holidays. If the date for making any payment or the date for performance of any act or the exercising of any right, as provided in this Indenture, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Indenture and, in the case of payment of principal, premium, if any, or interest, without additional interest.

[Signature Page Follows]

IN WITNESS WHEREOF, THE ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE has caused these presents to be signed in its name and on its behalf by its President and, to evidence its acceptance of the trusts hereby created, Regions Bank has caused these presents to be signed in its name and on its behalf by one of its authorized signatories, all as of the day and year first above written.

**ECONOMIC DEVELOPMENT  
GROWTH ENGINE INDUSTRIAL  
DEVELOPMENT BOARD OF THE CITY  
OF MEMPHIS AND COUNTY OF  
SHELBY, TENNESSEE**

By: \_\_\_\_\_  
[NAME]  
Chair

**REGIONS BANK, as Bond Trustee**

By: \_\_\_\_\_  
[NAME]  
Authorized Signatory

[Signature Page to Trust Indenture]

**EXHIBIT A**

**FORM OF SERIES 2021 BOND**

No. 20\_\_R-\_\_

\$ \_\_\_\_\_

As provided in the Indenture referred to herein, until the termination of the system of Book-Entry-Only transfers through The Depository Trust Company (together with any successor securities depository appointed pursuant to the Indenture, "DTC") and notwithstanding any other provision of the Indenture to the contrary, a portion of the principal amount of this bond may be paid or redeemed without surrender hereof to the Paying Agent. DTC or a nominee, transferee or assignee of DTC as owner of this bond may not rely upon the principal amount indicated hereon as the principal amount hereof outstanding and unpaid. The principal amount hereof outstanding and unpaid shall for all purposes be the amount determined in the manner provided in the Indenture and indicated on the books of the Bond Trustee.

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF DTC TO THE BOND TRUSTEE FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUIRED BY AN AUTHORIZED REPRESENTATIVE OF DTC AND ANY PAYMENT IS MADE TO CEDE & CO., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSONS IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

UNITED STATES OF AMERICA  
STATE OF TENNESSEE  
ECONOMIC DEVELOPMENT GROWTH ENGINE  
INDUSTRIAL DEVELOPMENT BOARD OF THE  
CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE  
REVENUE BONDS (LIBERTY PARK PROJECT), SERIES 2021  
(FEDERALLY TAXABLE)

<u>Dated Date</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP NO.</u>
_____, _____	_____, _____	_____ %	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: \_\_\_\_\_ DOLLARS

The ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY,

TENNESSEE (the "Issuer"), a public nonprofit corporation created under Sections 7-53-101 *et seq.*, Tennessee Code Annotated, as amended (the "Act"), for value received, hereby promises to pay in lawful money of the United States of America to Regions Bank, or registered assigns, on the maturity date specified above, unless this Bond shall be redeemed and shall have previously been called for redemption and payment of the redemption price made or provided for, but solely from (i) amounts payable under the Loan Agreement dated as of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Memphis, Tennessee (the "Borrower") and the Issuer (the "Loan Agreement"); and (ii) other funds held under the Trust Indenture dated as of \_\_\_\_\_, 2021, as supplemented by a Supplemental Trust Indenture dated as of \_\_\_\_\_ 1, 20\_\_\_\_ (collectively, the "Indenture"), by and between the Issuer and Regions Bank, as bond trustee (the "Bond Trustee"), specified therefor and not otherwise, upon surrender hereof, the principal sum set forth above and to pay interest (computed on the basis of a 360-day year of twelve 30-day months) on such principal amount in like manner, but solely from amounts payable under the Loan Agreement and other funds held under the Indenture specified therefor, from the Interest Payment Date (hereinafter defined) next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is an Interest Payment Date, in which case from such Interest Payment Date if interest has been paid to such date, provided that such interest shall be payable from the dated date specified above if the date of authentication is prior to the first Interest Payment Date, at the rate per annum specified above, payable on each June 1 and December 1 beginning with \_\_\_\_\_ 1, 20\_\_\_\_ (each such date being an "Interest Payment Date"), until payment of such principal amount, or provision therefor, shall have been made upon redemption or at maturity. The principal on this Bond and the premium, if any, payable upon redemption, are payable at the designated corporate trust office of Regions Bank, as bond trustee under the Indenture. Interest payments hereon shall be made on each Interest Payment Date to the registered owners hereof appearing on the registration books of the Issuer (the "Bond Register") maintained by the Bond Trustee, as bond registrar, as of the close of business of the Bond Trustee on the 15th day (whether or not a business day) of the calendar month next preceding each \_\_\_\_\_ 1 and \_\_\_\_\_ 1 (the "Record Date") and shall be paid (i) by check or draft of the Bond Trustee mailed on the Interest Payment Date to such registered owner at such owner's address as it appears on the Bond Register or at such other address furnished to the Bond Trustee in writing by such registered owner or (ii) in the case of an interest payment on Series \_\_\_\_\_ Bonds (as hereinafter defined) to any such registered owner of \$1,000,000 or more in aggregate principal amount of Series \_\_\_\_\_ Bonds as of the close of business of the Bond Trustee on the Record Date for a particular Interest Payment Date, by wire transfer to such registered owner upon written request from such registered owner, which written request contains the wire transfer address (which shall be in the continental United States) to which such registered owner wishes to have such wire directed and which written request is received not less than 15 days prior to such Record Date (it being understood that such request may refer to multiple interest payments).

The Series \_\_\_\_\_ Bonds, including this Bond, are issued pursuant to and in full compliance with the Constitution and laws of the State of Tennessee, particularly the Act, and pursuant to a resolution adopted and approved by the Issuer, which resolution authorized the execution and delivery of the Indenture. The Series \_\_\_\_\_ Bonds and the interest payable thereon do not give rise to a pecuniary liability of the Issuer, the City of Memphis, the County of Shelby or the State of Tennessee or any political subdivision thereof or a charge against the general credit or taxing powers of the Issuer, the City of Memphis, the County of Shelby, the State of Tennessee or any political subdivision thereof and such Bonds and the interest payable thereon do not now



and shall never constitute a debt of the Issuer, the City of Memphis, the County of Shelby, the State of Tennessee or any political subdivision thereof within the meaning of any constitutional or statutory provision whatsoever. Neither the City of Memphis, the County of Shelby nor the State of Tennessee nor any political subdivision thereof shall in any event be liable for the payment of the principal of, premium, if any, or interest on the Series 20\_\_ Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Issuer. No breach by the Issuer of any such pledge, mortgage, obligation or agreement may impose any liability, pecuniary or otherwise, upon the City of Memphis, the County of Shelby or the State of Tennessee or any political subdivision thereof or any charge upon its general credit or its taxing power. The Issuer has no taxing power.

The Series \_\_\_\_ Bonds, including this Bond, and the interest payable hereon and thereon, are limited obligations of the Issuer and are payable solely from and to the extent of (i) amounts payable under the Loan Agreement (other than fees and expenses of the Issuer and the Issuer's right to indemnification in certain circumstances), and (ii) moneys on deposit in any fund held under the Indenture.

This Bond is one of an authorized series of Bonds (hereinafter defined) in the aggregate principal amount of \$ \_\_\_\_\_ designated Revenue Bonds (Liberty Park Project), Series 20\_\_ (Federally Taxable) (the "Series \_\_\_\_ Bonds"), issued under the Indenture for the purpose of loaning funds to the Borrower, which will be used to (i) pay Costs of the Project, (ii) fund construction period interest, (iii) fund debt service reserves, and (iv) pay costs associated and incurred in connection with the issuance of the Series \_\_\_\_ Bonds, all as permitted under the Act.

The Series \_\_\_\_ Bonds are all issued under and equally and ratably secured solely by and entitled to the security of the Indenture, duly executed and delivered by the Issuer to the Bond Trustee, and all of the right, title and interest of the Issuer in and to the Loan Agreement (excluding the right of the Issuer to receive payment of its fees and expenses, the Issuer's right to indemnification in certain circumstances and the Issuer's right to approve, execute and deliver supplements and amendments to the Loan Agreement), are assigned by the Issuer to the Bond Trustee as security for the Series \_\_\_\_ Bonds. It is provided in the Indenture that the Issuer may hereafter issue additional Bonds thereunder from time to time under certain terms and conditions contained therein to (i) pay Costs of the Project, (ii) fund construction period interest, (iii) fund debt service reserves, and (iv) pay costs associated and incurred in connection with the issuance of such Bonds. All Bonds, including the Series \_\_\_\_ Bonds, issued under and pursuant to the Indenture are herein referred to as the "Bonds." Reference is made to the Indenture, to all indentures supplemental thereto, to the Loan Agreement and to all amendments thereto for the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer, the Bond Trustee and the rights of the holders of the Series \_\_\_\_ Bonds, the issuance of additional Bonds and the terms on which the additional Bonds are or may be issued and secured, and to all the provisions of which the holder hereof by the acceptance of this Bond assents.

This Bond is registered on the Bond Register and may be transferred by the registered owner hereof at the written request of such registered owner in person or by his duly authorized attorney, but only in the manner, subject to the limitations and upon the payment of the charges provided in the Indenture and upon surrender and cancellation of this Bond. Upon such transfer, a

new fully registered bond or bonds, without coupons, of the same series and maturity and of authorized denominations for the same aggregate principal amount, shall be issued to the transferee in exchange therefor. Except as otherwise provided in the Indenture, the Issuer, the Bond Trustee and any paying agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal, redemption premium, if any, and interest due hereon and for all other purposes, and neither the Issuer nor the Bond Trustee nor any paying agent shall be affected by any notice to the contrary. The Issuer and the Bond Trustee shall not be required to register the transfer of or exchange any Bond after notice calling such Bond or portion thereof for redemption has been given as provided in the Indenture or during the 15-day period next preceding the first mailing of such notice of redemption.

The Series \_\_\_\_ Bonds are issuable only as registered Bonds, in denominations of \$5,000 and integral multiples thereof.

The Series \_\_\_\_ Bonds maturing on \_\_\_\_\_ 1, \_\_\_\_ and \_\_\_\_\_ 1, \_\_\_\_ are subject to mandatory Sinking Fund Redemption, prior to maturity, in part, on \_\_\_\_\_ 1 of the respective years and in the respective principal amounts set forth below, at a redemption price equal to the principal amount of Series \_\_\_\_ Bonds, plus accrued interest to the date of redemption.

% Series ____ Bonds Maturing 1, xxxx		% Series ____ Bonds Maturing 1,	
<u>Year</u>		<u>Year</u>	
<u>Principal Amount</u>		<u>Principal Amount</u>	

Payment or redemption of Series \_\_\_\_ Bonds through the mandatory Sinking Fund Redemption shall be without premium. In the event the Series \_\_\_\_ Bonds maturing on a specific date as aforesaid have been fully paid and sufficient money is on deposit in the Debt Service Fund to redeem Series Bonds maturing on that specific maturity date, then such money on deposit in the Debt Service Fund shall be applied to retirement of Series \_\_\_\_ Bonds maturing on the next succeeding maturity date in the order above set forth. The Series \_\_\_\_ Bonds shall be redeemed by the Bond Trustee pursuant to the provisions of this paragraph without any notice from or direction by the Issuer or the Borrower.

The principal amount of any Series \_\_\_\_ Bonds of a maturity entitled to mandatory Sinking Fund Redemption purchased with money in the Debt Service Fund in accordance with the Indenture, as applicable, will be credited against and in satisfaction of the mandatory Sinking Fund Redemption of the Series \_\_\_\_ Bonds of such maturity payable on the November 1 next succeeding the date such Series \_\_\_\_ Bond were so purchased. In addition, the principal amount of Series \_\_\_\_ Bonds of a maturity entitled to mandatory Sinking Fund Redemption that are (A) redeemed at the option of the Issuer, (B) purchased by the Borrower or the Issuer and delivered to the Bond Trustee for cancellation or (C) defeased in accordance with the Indenture shall be applied in satisfaction, in whole or in part, of one or more Sinking Fund Redemptions as the Borrower, in its discretion, may direct in a Written Request to the Bond Trustee.

[The Series \_\_\_\_ Bonds maturing on or after \_\_\_\_\_ 1, \_\_\_\_ are subject to redemption prior to maturity upon the Written Request of the Borrower at any time on or after

\_\_\_\_\_, 1, \_\_\_\_\_ out of amounts deposited in the Optional Redemption Fund, in whole or in part from time to time in any order of maturity determined by the Borrower, on any date, at a redemption price equal to one hundred percent (100%) of the principal amount of Series \_\_\_\_\_ Bonds to be redeemed, plus accrued interest thereon to the date of redemption.]

[The Series \_\_\_\_\_ Bonds shall be subject to redemption prior to maturity upon the Written Request of the Borrower out of amounts deposited in the Optional Redemption Fund, at any time [prior to \_\_\_\_\_ 1, \_\_\_\_\_], in whole or in part from time to time in any order of maturity determined by the Borrower, on any date, at a redemption price equal to the Make-Whole Redemption Price (as defined below).

The "Make-Whole Redemption Price" of any Series \_\_\_\_\_ Bonds to be redeemed is an amount equal to the greater of (i) 100% of the principal amount of such Series \_\_\_\_\_ Bonds or (ii) the sum of the present value of the remaining scheduled payments of principal of and interest on such Series \_\_\_\_\_ Bonds to the maturity date of such Series \_\_\_\_\_ Bonds, not including any portion of those payments of interest accrued and unpaid as of the date on which such Series \_\_\_\_\_ Bonds are to be redeemed, discounted on a semiannual basis to the date on which such Series \_\_\_\_\_ Bonds are to be redeemed, assuming a 360-day year consisting of twelve (12) 30-day months, at the Treasury Rate (as defined below) plus \_\_\_\_\_ (\_\_\_\_\_) basis points (0.\_\_\_\_%); plus, in each case, accrued and unpaid interest on such Series \_\_\_\_\_ Bonds on such redemption date.

The "Treasury Rate" is, as of the redemption date of any Series \_\_\_\_\_ Bonds, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) or, if such Statistical Release is no longer published, any source of similar market data) that has become publicly available at least two (2) Business Days, but not more than forty-five (45) calendar days, prior to such redemption date (excluding inflation indexed securities) most nearly equal to the period from such redemption date to the maturity date of such Series \_\_\_\_\_ Bonds to be redeemed; provided, however, that if the period from such redemption date to such maturity date is less than one year, the latest weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year that has become publicly available at least two (2) Business Days, but not more than forty-five (45) calendar days, prior to such redemption date shall be used.

The Make-Whole Redemption Price (and, if necessary, such substitute source of market data) shall be determined by an independent accounting firm, investment banking firm or financial advisor retained by the Borrower to calculate such redemption price (the "Calculation Agent"). The determination by the Calculation Agent of the redemption price shall be conclusive and binding on the Issuer, the Borrower, the Bond Trustee and the Holders of the Series \_\_\_\_\_ Bonds.]

If less than all of the Outstanding Series \_\_\_\_\_ Bonds of a maturity are to be redeemed, the Series \_\_\_\_\_ Bonds of such maturity to be redeemed shall be selected as provided in the Indenture.

In lieu of redeeming Series \_\_\_\_\_ Bonds other than by Sinking Fund Redemption, the Borrower may use such money otherwise available under the Indenture for redemption of Series \_\_\_\_\_ Bonds to purchase Series \_\_\_\_\_ Bonds in the open market at a price not exceeding the redemption price then applicable under the Indenture, plus accrued interest to the date of purchase,

and direct the Bond Trustee to apply such money to the payment of the purchase price of the Series \_\_\_\_ Bonds so purchased. The Series \_\_\_\_ Bonds so purchased shall be delivered to the Bond Trustee for cancellation and the Issuer shall receive credit for any such Series \_\_\_\_ Bonds so purchased in the same manner as if such Series \_\_\_\_ Bonds had been redeemed.

In the event any of the Series \_\_\_\_ Bonds are called for redemption as aforesaid, notice thereof identifying the Series \_\_\_\_ Bonds to be redeemed will be given by mailing a copy of such notice of redemption to the registered owners of the Series \_\_\_\_ Bonds not less than thirty or more than sixty days prior to the redemption date to the address shown on the Bond Register as of the close of business of the \_\_\_\_ business day prior to the giving of such notice.

Failure to give any notice of redemption by mailing or a defect in such notice or the mailing as to any Series \_\_\_\_ Bond shall not affect the validity of any proceedings for redemption as to any other Series \_\_\_\_ Bond with respect to which notice was properly given. Failure of any registered owner to receive any mailed notice of redemption shall not affect the sufficiency or validity of the proceedings for the redemption of the related Series \_\_\_\_ Bonds.

Except for a mandatory Sinking Fund Redemption pursuant to the Indenture, any notice of redemption may state that it is conditioned upon the receipt by the Bond Trustee of sufficient moneys to pay the redemption price, plus interest accrued and unpaid to the redemption date, or upon satisfaction of any other condition, or that it may be rescinded upon the occurrence of any other event, and any conditional notice so given may be rescinded at any time before payment of such redemption price and accrued interest if any such condition so specified is not satisfied or if any other such event occurs. Notice of such rescission shall be given to affected registered owners of Series \_\_\_\_ Bonds as promptly as practicable upon the failure of such condition or the occurrence of such other event, and shall be given in the same manner as the notice of redemption was given.

If a notice of redemption is given in accordance with the provisions of the Indenture, subject to rescission of any conditional notice, the Bonds, or portions thereof, thus called shall not bear interest after the applicable Redemption Date, shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

The Issuer may also pay or provide for the payment of the entire indebtedness on all Bonds of a particular series or any portion of a series by: (a) paying or causing to be paid the principal of, and interest on, all Bonds Outstanding, as and when the same become due and payable; (b) depositing with the Bond Trustee, in trust, at or before maturity, money in an amount sufficient to pay or redeem (when redeemable) all Bonds Outstanding (including the payment of premium, if any, and interest payable on such Bonds to the maturity or redemption date thereof), provided that such money, if invested, shall be invested in Escrow Obligations in an amount, without consideration of any income or increment to accrue thereon, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds Outstanding at or before their respective maturity dates; it being understood that the investment income on such Escrow Obligations may be used by or for the benefit of the Borrower for any other purpose under the Act provided that the Bond Trustee shall be permitted to rely upon an independent certified public accountant's or financial analyst's verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit; (c) by delivering to the Bond Trustee,

for cancellation by it, all Bonds Outstanding, or (d) by depositing with the Bond Trustee, in trust, Escrow Obligations in such amount as the Bond Trustee shall determine will, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, and with any money so deposited which is to remain uninvested, be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds Outstanding at or before their respective maturity dates, provided that the Bond Trustee shall be permitted to rely upon an independent certified public accountant's or financial analyst's verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit. Upon such deposit, such Bonds Outstanding thereof shall cease to be entitled to any lien, benefit or security under the Indenture. The liability of the Issuer shall continue but the holders thereof shall thereafter be entitled to payment (to the exclusion of all other Bondholders) only out of the moneys or Escrow Obligations deposited with the Bond Trustee.

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. ***In no event may the principal of any Bonds be declared to be immediately due and payable upon the occurrence of any Event of Default under the Indenture.*** Modifications or alterations of the Indenture, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

It is hereby certified that all conditions, acts and things required to exist, happen and be performed under the Act and under the Indenture precedent to and in the issuance of this Bond, exist, have happened and have been performed, and that the issuance, authentication and delivery of this Bond have been duly authorized by resolution of the Issuer duly adopted.

No recourse shall be had for the payment of the principal of, premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in the Indenture contained, against any past, present or future officer, director, member, employee or agent of the Issuer, or any incorporator, officer, director, member, trustee, employee or agent of any successor public corporation, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such incorporators, officers, directors, trustees, members, employees or agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution of the Indenture and the issuance of any of the Bonds.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been duly executed by the Bond Trustee by manual signature.

IN WITNESS WHEREOF, as provided by the Act, the ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE has caused this Bond to be executed in its name and on its behalf by the signatures of its President and Secretary, all as of the dated date specified above.

ECONOMIC DEVELOPMENT GROWTH  
ENGINE INDUSTRIAL DEVELOPMENT  
BOARD OF THE CITY OF MEMPHIS  
AND COUNTY OF SHELBY, TENNESSEE

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

### **CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Series \_\_\_\_ Bonds described in the within-mentioned Indenture.

Authentication Date: \_\_\_\_\_, 20\_.

REGIONS BANK, as Bond Trustee

By: \_\_\_\_\_  
Authorized Officer

### ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

\_\_\_\_\_  
(Name and Address of Assignee)  
the within Bond and does hereby irrevocably constitute and appoint  
\_\_\_\_\_, Attorney, to transfer the said Bond on  
the Bond Register thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature guaranteed: \_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever. Furthermore, such signature must be guaranteed by a member firm of a Medallion Program acceptable to the Bond Trustee.



## EXHIBIT B

### FORM OF PROJECT COST REQUISITION

REQUISITION # \_\_\_\_\_

Regions Bank  
Corporate Trust Services  
150 Fourth Avenue North, Suite 1500  
Nashville, Tennessee 37219  
Attention: Corporate Trust Services

Re: Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee Revenue Bonds (Liberty Park Project), Series 2021 (Federally Taxable)

Ladies and Gentlemen:

In connection with the Construction Fund established under a Trust Indenture dated as of \_\_\_\_\_, 2021 (the "Indenture") by and between the Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee and Regions Bank, as Trustee, as may be amended and supplemented to the date hereof, the undersigned Authorized Officer of the City of Memphis, Tennessee (the "Borrower") hereby requests disbursement from each of the respective accounts within the Construction Fund stated below to each of the following payees in the respective amounts and for the respective purposes set forth below.

**[INSERT THE NAME OF EACH PAYEE, THE STATED PURPOSE(S) IN TERMS SUFFICIENT FOR IDENTIFICATION, AND THE RESPECTIVE STATED DOLLAR AMOUNT TO BE PAID TO EACH PAYEE AND THE ACCOUNT WITHIN THE CONSTRUCTION FUND FROM WHICH PAYMENT IS TO BE MADE TO EACH SUCH PAYEE].**

As required by Section 302 of the Indenture, the undersigned does hereby certify as follows:

1. The above obligations in the stated amounts have been incurred by or on behalf of the Borrower and are presently due and payable and constitute Costs of the Project within the meaning of the Indenture and that each item thereof is a proper charge against the Construction Fund and has not been paid or reimbursed, as the case may be, from the proceeds of the Bonds.
2. This requisition contains no item representing payment on account of any retained percentage which the Borrower is at the date of such requisition entitled to retain, unless the Borrower has waived such retention right
3. There is no outstanding indebtedness known to the Borrower, after due inquiry, for work, materials or supplies which, if unpaid, could be the basis for a vendor's or mechanic's or similar lien on the Project or any part of it, other than indebtedness to be paid pursuant to the

Exhibit B-1

requisition or from amounts withheld to secure completion, and no notice of any lien or claim affecting the right of any Person to receive a payment requested in this requisition has been filed with or served upon the Borrower.

4. The withdrawal and use of the Construction Fund money for the purpose intended will not cause any representations or certifications of the Borrower made herein or in the Loan Agreement to be untrue.

5. The Borrower has copies of all invoices and statements with respect to the amounts to be paid pursuant to this requisition.

6. As to any payment to be made under a construction contract:

(i) the Borrower has obtained written waiver by the construction manager or general contractor under such contract of mechanics' and vendors' liens for all work and material described in the requisition performed or furnished by such construction manager or general contractor; and [Either of the following]

[(ii) a lien search report dated within two business days of the date of the requisition reflects no liens, stop notices or other evidence of nonpayment of any mechanic, materialman or other person;] [(ii) waivers of mechanics' and vendors' liens for all work and material performed or furnished to the Project from all others (other than the construction manager or general contractor);] and

(iii) the contractor is entitled to payment in the amount shown in this requisition.

Capitalized terms used but not defined herein have the meaning set forth in the Indenture.

**CITY OF MEMPHIS, TENNESSEE**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Officer

50010454.v10

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FIRST SUPPLEMENTAL TRUST INDENTURE

BETWEEN

ECONOMIC DEVELOPMENT GROWTH ENGINE  
INDUSTRIAL DEVELOPMENT BOARD OF THE  
CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE

AND

REGIONS BANK,  
AS BOND TRUSTEE

DATED AS OF \_\_\_\_\_, 2021

ECONOMIC DEVELOPMENT GROWTH ENGINE  
INDUSTRIAL DEVELOPMENT BOARD OF THE  
CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE

REVENUE BONDS (LIBERTY PARK PROJECT), SERIES 2021  
(FEDERALLY TAXABLE)

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## TABLE OF CONTENTS

### ARTICLE I

#### DEFINITIONS

Section 101. Definitions.....	2
Section 102. Construction.....	2

### ARTICLE II

#### THE SERIES 2021 BONDS

Section 201. Authorization of Series 2021 Bonds .....	2
Section 202. Issuance of Series 2021 Bonds.....	2

### ARTICLE III

#### REDEMPTION OF BONDS

Section 301. Optional Redemption Dates and Prices; Purchase .....	3
Section 302. Selection of Bonds to be Redeemed.....	4
Section 303. Notices of Redemption.....	5

### ARTICLE IV

#### DEBT SERVICE RESERVE FUND

Section 401. Establishment of Series 2021 Debt Service Reserve Account .....	6
Section 402. Debt Service Reserve Requirement.....	6

### ARTICLE V

#### APPLICATION OF BOND PROCEEDS AND REQUIRED FUND DEPOSITS

Section 501. Deposit of Funds .....	7
-------------------------------------	---

### ARTICLE VI

#### MISCELLANEOUS

Section 601. Severability.....	7
Section 602. Counterparts .....	8
Section 603. Applicable Law .....	8

**THIS FIRST SUPPLEMENTAL TRUST INDENTURE** (this “**Supplemental Indenture**”), dated as of \_\_\_\_\_, 2021, is entered into between the **ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE** (the “**Issuer**”) and **REGIONS BANK**, as bond trustee (the “**Bond Trustee**”) under a Trust Indenture dated as of \_\_\_\_\_, 2021, between the Issuer and the Bond Trustee (as the same may from time to time be supplemented (including by this Supplemental Indenture), amended and restated, the “**Indenture**”).

**WITNESSETH:**

**WHEREAS**, the Issuer is a public nonprofit corporation organized under the laws of the State of Tennessee created under Sections 7-53-101 *et seq.*, Tennessee Code Annotated (as the same may from time to time be amended, the “**Act**”); and

**WHEREAS**, the City of Memphis, Tennessee (the “**Borrower**”) has entered into a Loan Agreement, dated as of \_\_\_\_\_, 2021, by and between the Issuer and the Borrower (as the same may from time to time be amended, supplemented and restated, the “**Loan Agreement**”) providing for a loan by the Issuer to the Borrower, and desires that the Series 2021 Bonds (as hereinafter defined) be issued by the Issuer under and pursuant to the Indenture and the proceeds thereof loaned by the Issuer to the Borrower under the Loan Agreement to (i) pay Costs of the Project, including interest on Bonds during construction of any Project and for two (2) years after the estimated date of completion of such Project, (ii) pay certain expenses incurred in connection with the issuance of Bonds, (iii) fund any debt service reserves, and (iv) pay or provide for the payment of Outstanding Bonds or any portion of any thereof, all as permitted under the Act; and

**WHEREAS**, the Issuer is authorized under the Act, among other things, to issue bonds for the purpose of loaning funds to the Borrower for the foregoing purposes and to enter into a supplemental trust indenture providing for the issuance of such bonds and for their payment and security; and

**WHEREAS**, the Issuer has determined that the public interest will be best served and that the purposes of the Act can be more advantageously obtained by the Issuer’s issuance of bonds in order to loan funds to the Borrower as aforesaid; and

**WHEREAS**, the execution and delivery of this Supplemental Indenture, the Indenture and the Loan Agreement have been in all respects duly and validly authorized by resolutions duly passed and approved by the Issuer; and

**WHEREAS**, all things necessary to make the Series 2021 Bonds, when authorized by the Issuer and authenticated by the Bond Trustee and issued as provided in the Indenture and this Supplemental Indenture, the valid, binding and legal obligations of the Issuer according to the import thereof.

**IT IS HEREBY COVENANTED, DECLARED AND AGREED** as follows:

## ARTICLE I

### DEFINITIONS

Section 101. Definitions. (a) The words and terms used in this Supplemental Indenture which are defined in the Indenture shall have the respective meanings given them in the Indenture unless the context indicates another or different meaning or intent.

(b) In addition to the words and terms elsewhere defined in this Supplemental Indenture, including the introductory paragraph hereof and recitals hereto, the following words and terms as used in this Supplemental Indenture shall have the following meanings unless the context or use indicates another or different meaning or intent:

“**Interest Payment Date**” means, with respect to the Series 2021 Bonds, each \_\_\_\_\_ 1 and \_\_\_\_\_ 1, commencing on the respective dates set forth in Section 202 hereof

“**Series 2021 Bonds**” means the Revenue Bonds (Liberty Park Project), Series 2021 (Federally Taxable), authorized by Section 202(a) hereof

(c) All accounting terms not otherwise defined herein shall have the meanings assigned to them in accordance with generally accepted accounting principles. Headings of articles and sections herein and the table of contents hereof are solely for the convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

Section 102. Construction. All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words “herein,” “hereof and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision unless the context indicates otherwise.

## ARTICLE II

### THE SERIES 2021 BONDS

Section 201. Authorization of Series 2021 Bonds. There are hereby authorized to be issued \_\_\_\_\_ (\$ \_\_\_\_\_) aggregate principal amount of Series 2021 Bonds.

Section 202. Issuance of Series 2021 Bonds. (a) The Series 2021 Bonds shall be designated “Revenue Bonds (Liberty Park Project), Series 2021 (Federally Taxable).” The Series 2021 Bonds shall bear interest from their respective dates and shall be issuable as registered bonds, in the denominations of \$5,000 and integral multiples thereof unless the Issuer shall otherwise direct, the Series 2021 Bonds shall be lettered “2021 R-” and numbered from one upward in order of issuance. The Series 2021 Bonds, as initially issued, will be dated as of their date of initial issuance. Interest on the Series 2021 Bonds will be payable on each Interest Payment Date, commencing \_\_\_\_\_ 1, 2021.

The Series 2021 Bonds shall mature on \_\_\_\_\_ 1 of each of the years set forth and in the principal amount set forth opposite such respective year, and shall bear interest (based on a 360-day year of twelve 30-day months) at the respective rates set forth, in the following schedule:

Maturity Date (_____)	Principal Amount	Interest Rate
-----------------------------	---------------------	------------------

(b) The principal of, premium, if any, and interest on the Series 2021 Bonds shall be payable in any currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of public and private debts, and such principal and premium, if any, shall be payable upon presentment at the designated corporate trust office of the Bond Trustee, or its successor as Bond Trustee, or at the office of any alternate Paying Agent, if any, named in any such Bond. Payment of the interest on any Series 2021 Bond due on any Interest Payment Date shall be made to the Person appearing on the Bond Register as the registered owner thereof as of the close of business of the Bond Trustee on the Record Date for such interest payment and shall be paid (i) by check or draft of the Bond Trustee mailed on the Interest Payment Date to such registered owner at such owner's address as it appears on the Bond Register or at such other address as is furnished to the Bond Trustee in writing by such owner or (ii) in the case of an interest payment on Series 2021 Bonds, to any such registered owner of \$1,000,000 or more in aggregate principal amount of Series 2021 Bonds of such series as of the close of business of the Bond Trustee on the Record Date for a particular Interest Payment Date, by wire transfer to such registered owner upon written request from such registered owner, which request shall contain the wire transfer address (which shall be in the continental United States) to which such registered owner wishes to have such wire directed, which written request is received not less than fifteen days prior to such Record Date (it being understood that such request may refer to multiple interest payments).

The foregoing shall be subject to the Securities Depository provisions of Section 211 of the Indenture.

### ARTICLE III

#### REDEMPTION OF BONDS

Section 301. Optional Redemption Dates and Prices; Purchase. (a) *Optional Redemption of Series 2021 Bonds.* The Series 2021 Bonds maturing before December 1, 202[ ], shall be subject to redemption prior to maturity upon the Written Request of the Borrower out of amounts deposited in the Optional Redemption Fund, at any time, in whole or in part from time to time in any order of maturity determined by the Borrower, on any date, at a redemption price equal to the [Make-Whole Redemption Price (as defined below)].

[The "Make-Whole Redemption Price" of any Series 2021 Bonds to be redeemed is an amount equal to the greater of (i) 100% of the principal amount of such Series 2021 Bonds or (ii) the sum of the present value of the remaining scheduled payments of principal of and interest on such Series 2021 Bonds to the maturity date of such Series 2021 Bonds, not including any

portion of those payments of interest accrued and unpaid as of the date on which such Series 2021 Bonds are to be redeemed, discounted on a semiannual basis to the date on which such Series 2021 Bonds are to be redeemed, assuming a 360-day year consisting of twelve (12) 30-day months, at the Treasury Rate (as defined below) plus thirty-five (35) basis points (0.35%); plus, in each case, accrued and unpaid interest on such Series 2021 Bonds on such redemption date.

The "Treasury Rate" is, as of the redemption date of any Series 2021 Bonds, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) or, if such Statistical Release is no longer published, any source of similar market data) that has become publicly available at least two (2) Business Days, but not more than forty-five (45) calendar days, prior to such redemption date (excluding inflation indexed securities) most nearly equal to the period from such redemption date to the maturity date of such Series 2021 Bonds to be redeemed; provided, however, that if the period from such redemption date to such maturity date is less than one year, the latest weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year that has become publicly available at least two (2) Business Days, but not more than forty-five (45) calendar days, prior to such redemption date shall be used.

The Make-Whole Redemption Price (and, if necessary, such substitute source of market data) shall be determined by an independent accounting firm, investment banking firm or financial advisor retained by the Borrower to calculate such redemption price (the "Calculation Agent"). The determination by the Calculation Agent of the redemption price shall be conclusive and binding on the Issuer, the Borrower, the Bond Trustee and the Holders of the Series 2021 Bonds.]

The Series 2021 Bonds maturing on or after December 1, 202[ ], shall be subject to redemption prior to maturity upon the Written Request of the Borrower on or after December 1, 202[ ], out of amounts deposited in the Optional Redemption Fund, at any time, in whole or in part from time to time in any order of maturity determined by the Borrower, on any date, at a redemption price equal to one hundred percent (100%) of the principal amount of Series 2021 Bonds to be redeemed, plus accrued interest thereon to the date of redemption.

(b) *Purchase in Lieu of Optional Redemption and Cancellation.* In lieu of redeeming Series 2021 Bonds pursuant to subsection (a) of this Section 301, the Borrower may use such money otherwise available under the Indenture for redemption of Series 2021 Bonds to purchase Series 2021 Bonds in the open market at a price not exceeding the redemption price then applicable hereunder, plus accrued interest to the date of purchase, and direct the Bond Trustee to apply such money to the payment of the purchase price of the Series 2021 Bonds so purchased. The Series 2021 Bonds so purchased shall be delivered to the Bond Trustee for cancellation and the Issuer shall receive credit for any such Series 2021 Bonds so purchased in the same manner as if such Series 2021 Bonds had been redeemed.

Section 302. Selection of Bonds to be Redeemed. If less than all of the Outstanding Series 2021 Bonds of a maturity are to be redeemed pursuant to Section 301(a), the Series 2021 Bonds of such maturity to be redeemed shall be selected as provided below in this Section.



Subject to the following paragraph, any redemption of less than all of a maturity of Series 2021 Bonds shall be allocated among the Holders of such Series 2021 Bonds as nearly as practicable pro rata in proportion to the principal amounts of Series 2021 Bonds owned by each Holder, subject to the authorized denominations applicable to the Series 2021 Bonds. The calculation of such proportion shall be based on the following formula:

$$\frac{(\text{principal to be redeemed}) \times (\text{principal owned by a Holder})}{(\text{principal amount Outstanding})}$$

If the Series 2021 Bonds to be redeemed are registered in book-entry form and so long as DTC is the sole registered Holder of the Series 2021 Bonds of the maturity to be redeemed, it is the Issuer's intent that the Series 2021 Bonds of such maturity or portions thereof to be redeemed shall be selected on a pro rata pass-through distribution of principal basis in accordance with DTC procedures then in effect with respect to redemptions of less than all of the Outstanding Bonds of a series and maturity. However, neither the Issuer nor the Borrower can provide any assurance that DTC, DTC's direct and indirect participants or any other intermediary will allocate the redemption of Series 2021 Bonds on such basis. If the DTC operational arrangements do not allow for the redemption of the Series 2021 Bonds on a pro rata pass-through distribution of principal basis, then the Series 2021 Bonds of a maturity to be redeemed shall be selected in accordance with DTC procedures, currently by lot. If, at the time of redemption of the Series 2021 Bonds on a pro rata pass-through distribution of principal basis, the Bond Trustee has failed to notify DTC that the Series 2021 Bonds to be redeemed are to be redeemed pursuant to DTC's pro rata pass-through distribution of principal procedures, or has failed to furnish to DTC the factor to be applied by it in determining the pro rata allocation of the principal to be redeemed, then the Series 2021 Bonds of a maturity to be redeemed may be selected in accordance with DTC procedures, currently by lot.

Section 303. Notices of Redemption. (a) Notice to Bond Trustee of Intent to Redeem. Series 2021 Bonds shall be called for redemption by the Bond Trustee pursuant to Section 301 hereof upon receipt by the Bond Trustee at least sixty days prior to the redemption date of a Written Request of the Borrower requesting such redemption; provided, however, that the Borrower may give such Written Request at such later time as may be approved by the Bond Trustee, in its sole discretion, but in no event shall such Written Request for the redemption of Series 2021 Bonds be given less than thirty days prior to the redemption date. Such Written Request shall specify the series, maturity and principal amount of the Series 2021 Bonds so to be called for redemption, the applicable redemption price or prices and the provision or provisions above specified pursuant to which such Series 2021 Bonds are to be called for redemption.

(b) Notice to Bondholders of Redemption: Conditional Notice. Notice of the call for any redemption shall state the following: (a) the name of the Series 2021 Bonds, (b) the CUSIP number of the Series 2021 Bonds to be redeemed, (c) the original date of the Series 2021 Bonds, (d) the interest rate and maturity date of the Series 2021 Bonds to be redeemed, (e) the date of the redemption notice, (f) the Redemption Date, (g) the redemption price and (h) the address and telephone number of the principal office of the Bond Trustee. Such notice shall further state that on the Redemption Date for such Series 2021 Bonds there shall become due and payable upon each Series 2021 Bond to be redeemed the redemption price thereof, or the redemption price of the specified portion of the principal amount thereof in the case of a Series 2021 Bond to be redeemed in part only, with interest accrued and unpaid to such date, and that from and after such date,

interest thereon shall cease to accrue and be payable. The redemption notice shall be given by mailing a copy of such notice of redemption by first class mail, postage prepaid, not less than thirty or more than sixty days prior to the Redemption Date, to the registered owners of the Series 2021 Bonds to be redeemed to the address shown on the Bond Register not less than thirty or more than sixty days prior to the Redemption Date.

Any notice of redemption may state that it is conditioned upon the receipt by the Bond Trustee of sufficient moneys to pay the redemption price, plus interest accrued and unpaid to the redemption date, or upon satisfaction of any other condition, or that it may be rescinded upon the occurrence of any other event, and any conditional notice so given may be rescinded at any time before payment of such redemption price and accrued interest if any such condition so specified is not satisfied or if any other such event occurs. Notice of such rescission shall be given by the Bond Trustee to affected registered owners of Series 2021 Bonds as promptly as practicable upon the failure of such condition or the occurrence of such other event and shall be given in the same manner as the notice of redemption was given.

Failure to give any notice of redemption by mailing or a defect in such notice or the mailing as to any Series 2021 Bond shall not affect the validity of any proceedings for redemption as to any other Series 2021 Bond with respect to which notice was properly given. Failure of any registered owner to receive any mailed notice of redemption shall not affect the sufficiency or validity of the proceedings for the redemption of the related Series 2021 Bonds.

If a notice of redemption is given in accordance with the provisions of this Section 305, subject to rescission of any conditional notice, the Series 2021 Bonds, or portions thereof, thus called shall not bear interest after the applicable Redemption Date, shall no longer be protected by the Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture.

At the written direction of the Borrower, funds on deposit with the Bond Trustee for the redemption of Series 2021 Bonds may be invested in Government Obligations until needed for redemption payout.

#### ARTICLE IV

##### DEBT SERVICE RESERVE FUND

Section 401. Establishment of Series 2021 Debt Service Reserve Account. The Issuer shall establish with the Bond Trustee a separate Debt Service Reserve Account within the Debt Service Reserve Fund to be known as the “**Series 2021 Bonds Debt Service Reserve Account.**”

Section 402. Debt Service Reserve Requirement. For purposes of Sections 402(b)(ii), 404(c) and 406 of the Indenture, the Debt Service Reserve Requirement for the Series 2021 Bonds shall be \$-0-. For purposes of Section 404(d) of the Indenture, (a) until [\_\_\_\_], 202[7], the Debt Service Reserve Requirement for the Series 2021 Bonds shall be \$[\_\_\_\_], and (b) thereafter, the Debt Service Reserve Requirement for the Series 2021 Bonds shall be \$-0-.

## ARTICLE V

### APPLICATION OF BOND PROCEEDS AND REQUIRED FUND DEPOSITS

Section 501. Deposit of Funds. The Issuer, for and on behalf of the Borrower, shall deposit all of the net proceeds loaned to the Borrower from the sale of the Series 2021 Bonds as follows:

- (1) Deposit \$[ ] to the credit of the Capitalized Interest Account for the payment of interest accrued on the Series 2021 Bonds prior to the Closing Date and of interest to accrue thereon thereafter and capitalized;
- (2) Deposit \$[ ], to the credit of the Construction Fund to be used for the payment of the Costs of the Project.
- (3) Deposit \$[ ], to the credit of the Series 2021 Bonds Debt Service Reserve Account.
- (4) Deposit the balance of the proceeds of the Series 2021 Bonds in the amount of \$[ ] to the credit of the Costs of Issuance Fund hereby created to be used for the payment of expenses for any recording, trustee's and depository's fees and expenses, accounting and legal fees, municipal bond insurance premiums, financing costs (including costs of acquiring investments for the funds and escrows) and other fees and expenses incurred or to be incurred by or on behalf of the Issuer or the Borrower in connection with or incident to the issuance and sale of the Series 2021 Bonds.

At such time as the Bond Trustee is furnished with a Written Request executed by the Borrower and the Issuer stating that all such fees and expenses have been paid, the Bond Trustee shall transfer any money remaining in the Costs of Issuance Account to the Debt Service Fund, in accordance with such Written Request.

## ARTICLE VI

### MISCELLANEOUS

Section 601. Severability. If any provision of this Supplemental Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or Sections in this Indenture contained, shall not affect the remaining portions of this Indenture, or any part thereof.

Section 602. Counterparts. This Supplemental Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 603. Applicable Law. This Supplemental Indenture shall be governed exclusively by the applicable laws of the State of Tennessee.

[Remainder of page intentionally left blank; signature page follows.]

**IN WITNESS WHEREOF, the ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE**, has caused these presents to be signed in its name and on its behalf by its Chair and, to evidence its acceptance of the trusts hereby created, Regions Bank has caused these presents to be signed in its name and on its behalf by one of its Vice Presidents, all as of the day and year first above written.

**ECONOMIC DEVELOPMENT GROWTH  
ENGINE INDUSTRIAL DEVELOPMENT  
BOARD OF THE CITY OF MEMPHIS AND  
COUNTY OF SHELBY, TENNESSEE**

By: \_\_\_\_\_  
Name:   
Title: Chair

**REGIONS BANK**, as Bond Trustee

By: \_\_\_\_\_  
Name:  
Title:

49954974.v3

[Signature page to Supplemental Trust Indenture]

**ECONOMIC DEVELOPMENT GROWTH ENGINE  
INDUSTRIAL DEVELOPMENT BOARD  
OF THE  
CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE**

**\$ \_\_\_\_\_ ] REVENUE BONDS (LIBERTY PARK PROJECT),  
SERIES 2021 (FEDERALLY TAXABLE)**

**BOND PURCHASE AGREEMENT**

[June] \_\_\_\_\_, 2021

**Economic Development Growth Engine  
Industrial Development Board of the City of  
Memphis and County of Shelby, Tennessee  
100 Peabody Place; Suite 1100  
Memphis, Tennessee 38103**

**City of Memphis, Tennessee  
125 North Main Street  
Room 368  
Memphis, Tennessee 38103**

Dear Addressees:

The undersigned, Raymond James & Associates, Inc. (the "Representative"), acting on its own behalf and on behalf of the underwriters listed on Schedule I attached hereto (the Representative and such other underwriters being collectively called the "Underwriters"), and not acting as a fiduciary or agent for Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee (the "Issuer") or the City of Memphis, Tennessee (the "City"), hereby offers to enter into this Bond Purchase Agreement (this "Purchase Agreement") with the Issuer, which is hereby acknowledged and agreed to by the City, for sale by the Issuer and purchase by the Underwriters of the hereinafter defined Series 2021 Taxable Bonds referred to in Section 1 herein. Capitalized, but undefined, terms used herein shall have the same meanings assigned thereto in the hereinafter defined Official Statement, Indenture, Issuer Resolution, City Resolution and Loan Agreement, as applicable.

This offer is made subject to written acceptance by the Issuer and acknowledgment by the City of this Purchase Agreement, which acceptance and acknowledgment shall be evidenced by the execution of this Purchase Agreement by duly authorized officers of the Issuer and the City, respectively, prior to 10:00 p.m., Central Time, on the date hereof, and, if not so accepted, will be subject to withdrawal by the Representative upon written notice delivered to the Issuer and the City, at any time prior to the acceptance hereof by the Issuer and acknowledgment by the City. Upon such acceptance,

acknowledgment, execution and delivery, this Purchase Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the Issuer, the City and the Underwriters.

The Representative represents that it has heretofore been designated by the other Underwriters as their representative with respect to all matters pertaining to this Purchase Agreement and the Representative hereby acknowledges that it has been duly authorized by the other Underwriters and has full authority to: (a) execute this Purchase Agreement, (b) act under this Purchase Agreement on behalf of the other Underwriters, and (c) take any such action as it may deem advisable with respect to all matters pertaining to this Purchase Agreement.

**Section 1. Purchase and Sale of the Series 2021 Taxable Bonds.**

(a) Subject to the terms and conditions and in reliance upon the representations, warranties, agreements, and covenants contained in this Purchase Agreement, the Underwriters, jointly and severally, hereby agree to purchase from the Issuer, and the Issuer hereby agrees to sell and deliver to the Underwriters, all (but not less than all) of the Issuer's \$[ ] Revenue Bonds (Liberty Park Project), Series 2021 (Federally Taxable) (the "Series 2021 Taxable Bonds") for a purchase price of \$[ ] (the "Purchase Price"), which represents the par amount of \$[ ], less an underwriters' discount of \$[ ]. The Purchase Price shall be payable by the Underwriters to the Issuer on the Closing Date (as defined herein), by wire transfer of federal funds as provided in Section 8 herein.

(b) The Series 2021 Taxable Bonds shall be as described in the Official Statement and as authorized by and issued and secured under the Indenture. The Series 2021 Taxable Bonds shall be dated the date of delivery and shall mature at the times and in the principal amounts, bear interest at the rates and shall be subject to certain sinking fund (to the extent applicable) and redemption provisions prior to maturity, all as set forth in Schedule II attached hereto. The Series 2021 Taxable Bonds will be dated \_\_\_\_\_. Interest on the Series 2021 Taxable Bonds will accrue from their date of delivery and will be payable June 1 and December 1 of each year, commencing December 1, 2021, and will be calculated on the basis of a 360-day year of twelve 30-day months.

(c) The Issuer acknowledges and agrees that in connection with the purchase and sale of the Series 2021 Taxable Bonds pursuant to this Purchase Agreement and the offering of the Series 2021 Taxable Bonds for sale and the discussions and negotiations relating to the terms of the Series 2021 Taxable Bonds set forth in this Purchase Agreement:

(1) the purchase and sale of the Series 2021 Taxable Bonds pursuant to this Purchase Agreement is an arm's-length, commercial transaction between the Issuer and the Underwriters;

(2) the primary role of each Underwriter is to purchase securities for resale to investors, acting solely as a principal and not acting as an agent, a municipal advisor (within the meaning of Section 15B of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), a financial advisor, or fiduciary of the Issuer or the City;

(3) the Underwriters have not assumed any advisory or fiduciary responsibility in favor of the Issuer or the City with respect to the offering of the Series 2021 Taxable Bonds or the process leading thereto (whether or not the Underwriters, or any affiliates of the Underwriters, have advised or are currently advising the Issuer or the City on other matters) nor have the Underwriters assumed any other obligation to the Issuer or the City except the obligations expressly set forth in this Purchase Agreement;

(4) the Underwriters have financial and other interests that differ from those of the Issuer and the City;

(5) the Issuer and the City have consulted with their own legal, accounting, tax, financial and other advisors, as applicable, to the extent they have deemed appropriate in connection with the offering and sale of the Series 2021 Taxable Bonds; and

(6) the Underwriters have provided to the Issuer prior disclosures under Rule G-17 of the Municipal Securities Rulemaking Board (the "MSRB"), which have been received by the Issuer. The Representative represents and warrants to the Issuer that it has been duly authorized to act on behalf of itself and the other Underwriters to enter into this Purchase Agreement and to take all actions, on behalf of the Underwriters, required or contemplated to be performed by the Underwriters under this Purchase Agreement.

**Section 2. Description of Financing.** The following is provided for informational purposes only and shall not affect or control the actual terms and conditions of the Series 2021 Taxable Bonds:

(a) The Series 2021 Taxable Bonds are being issued in accordance with the provisions of Sections 7-53-101, et seq., of the Tennessee Code Annotated (as the same may from time to time be amended, the "Act"), that certain Trust Indenture to be dated as of \_\_\_\_\_, 2021 (the "Trust Indenture"), as supplemented by that certain First Supplemental Trust Indenture to be dated as of \_\_\_\_\_ (the "First Supplemental Indenture" and, together with the Trust Indenture, the "Indenture"), both between the Issuer and Regions Bank, as bond trustee (in that capacity, the "Trustee"), resolutions adopted and approved by the Issuer (the "Issuer Resolution") and resolutions adopted and approved by the City (the "City Resolution"), authorizing, among other things, the execution and delivery of the Indenture and the Loan Agreement, and the issuance and sale of the Series 2021 Taxable Bonds; and

(b) The proceeds of the Series 2021 Taxable Bonds will be loaned to the City, which proceeds, together with other available funds, will be used to: (1) to finance a portion of the Project; and (2) to the extent permitted, to pay certain costs of issuance and to fund a capitalized interest fund, a debt service reserve fund[, surplus fund and an escrow fund], if necessary.



**Section 3. Delivery of the Preliminary Official Statement and the Official Statement; Offering of the Series 2021 Taxable Bonds.**

(a) The Issuer hereby authorizes the distribution by the Underwriters of the Official Statement in connection with the public offering and sale of the Series 2021 Taxable Bonds. The Issuer consents to and ratifies the use by the Underwriters of the Preliminary Official Statement dated [ ], 2021 (such Preliminary Official Statement, including the cover page and all appendices, exhibits, reports and statements included therein or attached thereto and any amendments and supplements thereto that may be authorized by the Issuer for use with respect to the Series 2021 Taxable Bonds, being herein called the "Preliminary Official Statement"), relating to the Series 2021 Taxable Bonds for the purposes of marketing the Series 2021 Taxable Bonds in connection with the original public offer, sale and distribution of the Series 2021 Taxable Bonds by the Underwriters. As of its date, the Preliminary Official Statement was "deemed final" by the Issuer for purposes of Rule 15c2-12 of the Securities and Exchange Commission (the "SEC") promulgated under the Exchange Act (the "Rule"), except for the permitted omissions described in paragraph (b)(1) of the Rule. Prior to the execution of this Purchase Agreement, the Underwriters have scheduled and conducted a due diligence session with officers, officials and representatives of the Issuer, the City and the Underwriters and have reviewed the information in the Preliminary Official Statement and will review the information in the Official Statement in accordance with and as part of their responsibilities under the federal securities laws as applied to the facts and circumstances of this transaction; provided, however, the Underwriters do not guarantee or make any representations regarding the accuracy or completeness of such information in the Preliminary Official Statement and the Official Statement (other than as expressly set forth therein).

(b) As soon as practicable after the date of the Issuer's acceptance of this Purchase Agreement, the Issuer shall prepare (or cause to be prepared), and provide (or cause to be provided to the Underwriters), a final Official Statement relating to the Series 2021 Taxable Bonds which will be: (1) dated the date of this Purchase Agreement; (2) complete within the meaning of the Rule; (3) substantially in the form of the most recent version of the Preliminary Official Statement provided to the Representative before the execution hereof with only such changes permitted by the Rule; and (4) in both (i) a "designated electronic format" consistent with the requirements of Rule G-32, and (ii) printed in such quantities as the Representative shall reasonably request in order for the Underwriters to comply with Section (b)(4) of the Rule and the rules of the MSRB. Such Official Statement, including the cover pages thereto, all exhibits, appendices, maps, charts, pictures, diagrams, reports, and statements included or incorporated therein or attached thereto, and all amendments and supplements thereto that may be authorized for use with respect to the Series 2021 Taxable Bonds, is herein referred to as the "Official Statement." The Issuer hereby confirms that it does not object to the distribution of the Preliminary Official Statement or the Official Statement in electronic form. The Issuer shall cause copies of the Official Statement, in sufficient quantity for the Underwriters to comply with applicable rules of the SEC (including the Rule) and the MSRB, to be available to the Underwriters within seven (7) business days of the execution of this Purchase Agreement (but in no event shall an electronic copy be provided later than two (2) business days before the Closing Date) and in sufficient time to accompany any confirmation that requests payment from any customer of the Underwriters.

(c) To the extent required by rules of the SEC or MSRB, the Issuer hereby authorizes the Representative to file on or before the Closing Date (as defined herein), and the Representative hereby agrees to file or cause to be filed, the Official Statement with the MSRB or its designee (including submission to the MSRB's Electronic Municipal Market Access System ("EMMA")) or other repositories approved from time to time by the SEC (either in addition to or in lieu of the filings referred to above) within the timeframe required by Rule G-32 of the MSRB. Failure of the printer to provide copies of the Official Statement within seven (7) business days after the execution of this Purchase Agreement by the Issuer will not constitute a breach of this Purchase Agreement by the Issuer if such failure is caused by the Underwriters or the agent or representative of any Underwriter.

(d) The Issuer represents that officials of the Issuer have reviewed and approved the information in the Official Statement, and the Issuer hereby authorizes the distribution and use of the Official Statement, and the information therein contained, by the Underwriters in connection with the public offering and the sale of the Series 2021 Taxable Bonds. The Issuer ratifies and consents to the distribution and use by the Underwriters prior to the date hereof of the Preliminary Official Statement in connection with the public offering and sale of the Series 2021 Taxable Bonds.

(e) If, after the date of this Purchase Agreement to and including the date the Underwriters are no longer required to provide an Official Statement to potential customers who request the same pursuant to the Rule (the earlier of (i) 90 days from the "end of the underwriting period" (as defined in Rule) and (ii) the time when the Official Statement is available to any person from the MSRB, but in no case less than 25 days after the "end of the underwriting period" for the Series 2021 Taxable Bonds), the Issuer becomes aware of any fact or event which might or would cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or if it is necessary to amend or supplement the Official Statement to comply with law, the Issuer, the City and the Representative will notify each other thereof (and for the purposes of this clause provide the Representative with such information as it may from time to time reasonably request), and if, in the reasonable judgment of the Representative and the Co-Disclosure Counsel (as defined hereof), such fact or event requires preparation and publication of a supplement or amendment to the Official Statement, the Issuer will forthwith prepare and furnish, at the City's own expense (in form and substance jointly approved by the Issuer, the City and the Representative, which approval shall not be unreasonably withheld, conditioned or delayed so the Official Statement), a reasonable number of copies of either amendments or supplements to the Official Statement so that the statements in the Official Statement as so amended and supplemented will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or so that the Official Statement will comply with law; provided, however, that for all purposes of this Purchase Agreement and any representation, warranty, or covenant made herein, or any certificate delivered by the Issuer or the City in accordance herewith, the Issuer makes no representations with respect to the descriptions in the Preliminary Official Statement or the Official Statement of The Depository Trust Company, New York, New York ("DTC"), or its book-entry-only system. If such notification shall be subsequent to the Closing, the Issuer and the City shall furnish such legal opinions, certificates, instruments, and other documents as the Representative may reasonably deem necessary to evidence the truth and accuracy of such supplement or amendment to the Official Statement. The Issuer

shall provide any such amendment or supplement, or cause any such amendment or supplement to be provided, (1) in a "designated electronic format" consistent with the requirements of Rule G-32, and (2) in a printed format in such quantity as the Representative shall reasonably request in order for the Underwriters to comply with Section (b)(4) of the Rule and the rules of the MSRB.

(f) The Representative hereby agrees to timely file, or cause to be filed, the Official Statement, along with any amendment or supplement to the Official Statement prepared in accordance with Section 3(e) above, with (1) the MSRB or its designee (including the MSRB's Electronic Municipal Market Access System); or (2) other repositories approved from time to time by the SEC (either in addition to or in lieu of the filing referred to in clause (1) above).

(g) Each of the Preliminary Official Statement and the Official Statement contain information, including financial information or operating data, concerning every entity, enterprise, fund, account, or person that is material to an evaluation of the offering of the Series 2021 Taxable Bonds. Except as disclosed in the Preliminary Official Statement and the Official Statement, during the last five years the Issuer has complied in all material respects with all continuing disclosure agreements made by it in accordance with the Rule.

(h) In order to assist the Underwriters in complying with Rule 15c2-12, the City will undertake, pursuant to the Continuing Disclosure Agreement, to be dated as of the Closing Date (the "Disclosure Agreement"), by and between the City and Digital Assurance Certification, L.L.C. ("DAC"), as dissemination agent for the City, to provide annual financial information and notices of the occurrence of specified events. A description of the Disclosure Agreement is set forth in, and a form of such agreement is attached as Appendix [B] to, the Official Statement.

(i) For purposes of this Purchase Agreement, the "End of the Underwriting Period" is used as defined in the Rule and shall occur on the later of (i) the Closing Date, or (ii) when the Underwriters no longer retain an unsold balance of the Series 2021 Taxable Bonds; unless otherwise advised in writing by the Representative on or prior to the Closing Date, or otherwise agreed to by the Issuer and the Representative, the Issuer and the City may assume that the End of the Underwriting Period is the Closing Date.

(j) The Preliminary Official Statement and the Official Statement may be delivered in printed or electronic form to the extent permitted by applicable rules of the MSRB and as may be agreed by the Issuer and the Representative. If the Preliminary Official Statement or the Official Statement is prepared for distribution in electronic form, the Issuer hereby confirms that it does not object to distribution of the Preliminary Official Statement or the Official Statement in electronic form.

(k) The Issuer agrees that it will cooperate with the Underwriters in the qualification of the Series 2021 Taxable Bonds for offering and sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Underwriters shall designate; provided, however, the Issuer shall not be required to register as a dealer or broker in any such jurisdiction, execute a general or special consent to service of process or qualify to do business in connection with any such qualification of the Series 2021 Taxable Bonds in any such jurisdiction, nor incur any costs or fees in

connection with such qualification of the Series 2021 Taxable Bonds.

**Section 4. Public Offering.** The Underwriters agree to make a bona fide initial public offering of all of the Series 2021 Taxable Bonds in conformance with all applicable MSRB rules.

**Section 5. Reserved.**

**Section 6. Representations and Warranties of the Issuer.** By its acceptance hereof, the Issuer hereby represents, warrants and covenants to the City and the Underwriters, as of the date of this Purchase Agreement (and it shall be a condition of the obligation of the Underwriters to purchase and accept delivery of the Series 2021 Taxable Bonds at the Closing that the Issuer shall so represent and warrant as of the Closing Date), that:

(a) The Issuer is a public nonprofit corporation of the State of Tennessee (the "State") created and validly existing under the laws of the State and is an "Industrial Development Board" under the Act;

(b) The Issuer has complied with all applicable provisions of the Constitution of the State and laws of the State, including the Act, with respect to the consummation of, and has full power and authority to consummate, all transactions contemplated by this Purchase Agreement, the Issuer Resolution, the Indenture, the Loan Agreement and any other agreements relating thereto (collectively, the "Issuer Documents"); and the Issuer is authorized under the provisions of the Act to issue the Series 2021 Taxable Bonds for the purposes described in the Issuer Resolution and the Indenture;

(c) The Issuer Resolution has been duly adopted by the Board of the Issuer at a meeting duly called and held and duly and validly authorizes the issuance, sale and delivery of the Series 2021 Taxable Bonds and the execution and delivery of the Issuer Documents, and the Issuer Resolution, as of the date hereof, has not been amended, modified or repealed in any material respect (other than as contemplated herein or by the Official Statement or with respect to the issuance of the Series 2021 Taxable Bonds thereunder);

(d) The Issuer has duly and validly authorized all necessary action to be taken by it for: (i) the issuance, sale and delivery of the Series 2021 Taxable Bonds upon the terms set forth herein, (ii) the execution, delivery and performance of the Issuer Documents, including the Issuer Resolution which provides for, among other things, the issuance and delivery of and security for the Series 2021 Taxable Bonds, (iii) the carrying out, giving effect to, and consummation of the transactions contemplated hereby, and (iv) the ratification or consent, as the case may be, to the distribution by the Underwriters of the Preliminary Official Statement and the Official Statement;

(e) This Purchase Agreement constitutes a legal, valid, and binding obligation of the Issuer, enforceable in accordance with its terms; the other Issuer Documents, when duly executed and delivered, will constitute legal, valid, and binding obligations of the Issuer, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium, and other similar laws and principles of equity relating to or affecting the enforcement of creditors' rights; the

Series 2021 Taxable Bonds, when issued, delivered and paid for, in accordance with the Indenture and this Purchase Agreement, will constitute legal, valid, and binding obligations of the Issuer entitled to the benefits of the Issuer Documents, enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium, and other similar laws and principles of equity relating to or affecting the enforcement of creditors' rights; upon the issuance, authentication and delivery of the Series 2021 Taxable Bonds as aforesaid, and the Indenture will provide, for the benefit of the holders, from time to time, of the Series 2021 Taxable Bonds, the legally valid and binding pledge of the Trust Estate as set forth in the Issuer Documents and the City Resolution;

(f) All authorizations, approvals, licenses, permits, consents, and orders of any governmental authority, legislative body, board, agency, or commission having jurisdiction of the matter which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect the approval or adoption, as applicable, of the Issuer Documents, the issuance of the Series 2021 Taxable Bonds or the due performance by the Issuer of its obligations under the Issuer Documents and the Series 2021 Taxable Bonds have been duly obtained and are in full force and effect, except for the orders as may be required under the blue-sky or securities laws of any jurisdiction in connection with the offering and sale of the Series 2021 Taxable Bonds;

(g) The Issuer will furnish such information and execute such instruments and take such action in cooperation with the Underwriters as the Representative may reasonably request, (1) to (i) qualify the Series 2021 Taxable Bonds for offer and sale under the blue-sky or other securities laws and regulations of such states and other jurisdictions in the United States as the Representative may designate, and (ii) determine the eligibility of the Series 2021 Taxable Bonds for investment under the laws of such states and other jurisdictions; and (2) to continue such qualifications in effect so long as required for the distribution of the Series 2021 Taxable Bonds (provided, however, that the Issuer will not be required to qualify as a foreign corporation or to file any general or special consents to service of process under the laws of any jurisdiction) and will advise the Representative immediately of receipt by the Issuer of any written notification with respect to the suspension of the qualification of the Series 2021 Taxable Bonds for sale in any jurisdiction or the initiation or threat of any proceeding for that purpose;

(h) The Series 2021 Taxable Bonds and the Issuer Resolution conform to the descriptions thereof contained in the Preliminary Official Statement and the Official Statement under the captions "THE SERIES 2021 BONDS", "APPENDIX A – DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT", respectively. The proceeds of the sale of the Series 2021 Taxable Bonds will be applied generally as described in the Official Statement under the caption "ESTIMATED SOURCES AND USES OF FUNDS". The Continuing Disclosure Agreement substantially conforms to the description thereof and form thereof contained in the Preliminary Official Statement and the Official Statement under the captions "CONTINUING DISCLOSURE" and "APPENDIX C FORM OF CONTINUING DISCLOSURE AGREEMENT", respectively;

(i) Except as described in the Preliminary Official Statement and the Official Statement, there is no litigation, action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency or public board or body, pending or, to the best knowledge of the Issuer, threatened: (i) affecting the existence of the Issuer or the titles of its officers to their respective offices, (ii) affecting or seeking to prohibit, restrain or enjoin the sale, issuance, or delivery of the Series 2021 Taxable Bonds or the charge, collection, or payment of the Trust Estate pledged to the payment of principal of and interest on the Series 2021 Taxable Bonds pursuant to the Issuer Documents and the City Resolution, (iii) in any way contesting or affecting the validity or enforceability of the Series 2021 Taxable Bonds or the Issuer Documents, (iv), contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement or any supplement or amendment thereto, (v) contesting the powers of the Issuer or any authority for the issuance of the Series 2021 Taxable Bonds, the adoption of the Issuer Resolution, or the execution and delivery of the Issuer Documents, nor, to the knowledge of the Issuer, is there any basis therefor, or (vi) wherein an unfavorable decision, ruling, or finding would materially adversely affect the validity or enforceability of the Series 2021 Taxable Bonds or the Issuer Documents; provided, however, that for all purposes of this Purchase Agreement, including, without limitation, any certificate delivered by the Issuer in accordance herewith, the Issuer makes no representations with respect to the descriptions in the Preliminary Official Statement or the Official Statement of DTC, or its book-entry-only system;

(j) The execution and delivery of this Purchase Agreement and the other Issuer Documents, and the compliance with the provisions thereof, will not conflict with or constitute on the part of the Issuer a violation of, breach of, or default under: (i) the Act; (ii) any indenture, mortgage, lease, note agreement or other agreement or instrument to which the Issuer is a party or by which the Issuer is bound; or (iii) any constitutional provision or statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Issuer or any of its activities or properties;

(k) (i) The information concerning the Issuer contained in the sections of the Preliminary Official Statement entitled "INTRODUCTION - The Issuer," "THE ISSUER" and "LITIGATION - The Issuer" as of the date thereof was, and such information in the Official Statement as of the date thereof and as of the Closing Date (and as the same may be supplemented or amended, consistent with Section 3(d) herein) will be, true and correct in all material respects and does not and will not, as applicable, contain any untrue statement of a material fact or omit to state a material fact which is necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading; and (ii) the Issuer has not provided the information in and does not provide any assurance that the information contained in the other sections or appendices, as the case may be, in the Preliminary Official Statement and the Official Statement is true and correct in all material respects; provided, however, that nothing has come to the attention of the Issuer which would cause it to reasonably believe that anything contained in the Preliminary Official Statement or the Official Statement contains any untrue statement of a material fact or omits to state a material fact which is necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading;

(l) The Issuer is not in breach of or in default in any material respect under any applicable constitutional provision, law, or administrative regulation of the State or the United States relating to the issuance of the Series 2021 Taxable Bonds or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement, or other instrument to which the Issuer is a party or to which the Issuer or any of its property or assets is otherwise subject, and no event which would have a material and adverse effect upon the business or financial condition of the Issuer has occurred and is continuing which constitutes or with the passage of time or the giving of notice, or both, would constitute a default or event of default by the Issuer under any of the foregoing; and the adoption and/or execution and delivery of the Series 2021 Taxable Bonds and the Issuer Documents, and compliance with the provisions on the Issuer's part contained therein, will not conflict with or constitute a material breach of or default under any constitutional provision, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement, or other instrument to which the Issuer is a party or to which the Issuer is or to which any of its property or assets are otherwise subject nor will any such execution, delivery, adoption, or compliance result in the creation or imposition of any lien, charge, or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Issuer to be pledged to secure the Series 2021 Taxable Bonds or under the terms of any such law, regulation, or instrument, except as provided by the Series 2021 Taxable Bonds, the Issuer Documents, and the City Resolution;

(m) The Issuer will cause Regions Bank, as paying agent and registrar for the Series 2021 Taxable Bonds (in that capacity, the "Paying Agent and Registrar") to authenticate and deliver the Series 2021 Taxable Bonds when ready for delivery;

(n) To the best of the Issuer's knowledge, neither the SEC nor any state securities commission has issued or threatened to issue any order preventing or suspending the use of the Preliminary Official Statement or the Official Statement;

(o) The Issuer covenants that between the date hereof and the Closing it will take no actions which will cause the representations and warranties made in this Section 6 to be untrue as of Closing;

(p) The Issuer has delivered to the Representative true, correct, complete, and legible copies of all information, applications, reports, or other documents of any nature whatsoever submitted to any rating agency for the purpose of obtaining a rating for the Series 2021 Taxable Bonds; and

(q) Any certificate signed by one or more duly authorized officers of the Issuer (each an "Issuer Authorized Officer") and delivered to the Representative in connection with the sale of the Series 2021 Taxable Bonds shall be deemed a representation and warranty by it to the Underwriters as to the statements made therein.

**Section 7. Representations and Warranties of the City.** By its acceptance hereof, the City hereby represents, warrants and covenants to the Issuer and the Underwriters, as of the date of this Purchase Agreement (and it shall be a condition of the obligation of the Underwriters to purchase and accept delivery of the Series 2021 Taxable Bonds at the Closing that the City shall so represent and warrant as of the Closing Date), that:

(a) The City Resolution has been duly adopted by the City Council of the City at a meeting duly called and held and duly and validly authorizes the execution and delivery of this Purchase Agreement, the Loan Agreement, the Disclosure Agreement (collectively, the "City Documents") and a request to the Issuer for the issuance, sale and delivery of the Series 2021 Taxable Bonds, and the City Resolution, as of the date hereof, has not been amended, modified or repealed, in any material respect (other than as contemplated herein or by the Official Statement or with respect to the issuance of the Series 2021 Taxable Bonds thereunder);

(b) The City has duly and validly authorized all necessary action to be taken by it for the execution, delivery and performance of the City Documents;

(c) The City Documents, when executed by the other parties thereto, if any, will have been duly and validly executed and delivered by the City and will be in full force and effect as to the City;

(d) All consents, approvals, authorizations and orders of governmental or regulatory authorities that are required to be obtained by the City in connection with the execution and delivery of the City Documents and the consummation of the transactions contemplated thereby have been or will be, at Closing, duly obtained and in full force and effect;

(e) Other than the City's Excluded Sections (as defined herein), the information concerning the City contained in the Preliminary Official Statement was as of the date thereof, and such information in the Official Statement as of the date thereof and as of the Closing Date (as the same may be supplemented or amended, consistent with Section 3(i) herein) will be, true and correct in all material respects and does not and will not, as applicable, contain any untrue statement of a material fact or omit to state a material fact which is necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading; and notwithstanding the foregoing, the City has not provided the information in the sections and appendices, as the case may be, captioned "INTRODUCTION -The Issuer," "THE ISSUER," "BOOK-ENTRY ONLY SYSTEM," "TAX MATTERS," "SALES IMPACT ANALYSIS," "RATINGS," "UNDERWRITING," "APPENDIX A-- DEFINITION OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND LOAN AGREEMENT" "APPENDIX B - SALES TAX IMPACT ANALYSIS FOR THE MEMPHIS SPORTS & EVENTS CENTER AND TDZ," and "APPENDIX C—FORM OF PROPOSED OPINIONS OF CO-BOND COUNSEL" in the Preliminary Official Statement and the Official Statement (collectively, the "City's Excluded Sections") and does not provide any assurance that the information contained in the City's Excluded Sections is true and correct in all material respects; provided, however, nothing has come to the attention of the City which would cause it to reasonably believe that anything contained in the Preliminary Official Statement or the Official Statement contains any untrue statement of a material fact or omits to state a material fact which is necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(f) The financial statements of, and other financial information regarding the City, in the Preliminary Official Statement and the Official Statement fairly present the financial position and results of the City as of the dates and for the periods therein set forth. Prior to the Closing, the City will



not take any action within or under its control that will cause any adverse change of a material nature in such financial position, results of operations or condition, financial or otherwise, of the City. Except as described in the Preliminary Official Statement and the Official Statement, the City is not a party to any litigation or other proceeding pending or, to its knowledge, threatened which, if decided adversely to the City, could reasonably be expected to have a materially adverse effect on the financial condition of the City.

(g) The City is not aware of any breach of Sections 7-88-101, et seq., of the Tennessee Code Annotated, known as the Convention Center and Tourism Development Financing Act (as the same may be amended from time to time, the "TDZ Act") by the City and the City is authorized under the TDZ Act to receive TDZ Revenues, as defined in the Loan Agreement, and to use such TDZ Revenues in the manner contemplated by the Loan Agreement.

(h) The City has delivered to the Representative true, correct, complete, and legible copies of all information, applications, reports, or other documents of any nature whatsoever submitted to any rating agency for the purpose of obtaining a rating for the Series 2021 Taxable Bonds.

(i) Any certificate signed by one or more duly authorized officers of the City (each a "City Authorized Officer") and delivered to the Representative in connection with the sale of the Series 2021 Taxable Bonds shall be deemed a representation and warranty by it to the Underwriters as to the statements made therein.

**Section 8. Closing.** At or before 1:00 p.m., Central Daylight Time, on [\_\_\_\_], 2021, or at such other time or at such other date as shall have been mutually agreed upon by the Issuer, the City and the Representative (the "Closing Date"), (a) the Issuer will deliver the Series 2021 Taxable Bonds to the Representative, in definitive form and duly executed and authenticated, in such authorized denominations and registered in such names as the Representative may request through the FAST system of registration with The Depository Trust Company ("DTC"), New York, New York, at a place to be agreed upon by the Issuer, the City and the Representative, (b) the Issuer and the City will deliver their respective closing documents set forth in Section 9 herein to the Representative, and (c) the Representative will accept such delivery and pay the Purchase Price of the Series 2021 Taxable Bonds as set forth in Section 1 herein by wire transfer of federal funds to the order of "Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee" or as directed by the Issuer for deposit in the various funds established under the Indenture. Such delivery and such acceptance and payment are herein sometimes called the "Closing." Delivery of the other documents shall be made at such location as shall have been mutually agreed upon by the Issuer, the City and the Representative. The Series 2021 Taxable Bonds shall bear proper CUSIP numbers and shall be in typewritten form, with a single bond for each maturity of the Series 2021 Taxable Bonds, each such bond to be in a principal amount equal to the principal amount thereof maturing on each such date. The Series 2021 Taxable Bonds shall be registered in the name of Cede & Co., as nominee of DTC and will be made available for inspection and checking by the Underwriters in Memphis, Tennessee, not later than one (1) business day prior to the Closing Date.

**Section 9. Conditions to Closing.** The Underwriters have entered into this Agreement in

reliance upon the representations, warranties, and agreements of the Issuer contained herein, and in reliance upon the accuracy of the representations, warranties, and agreements to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Issuer of its obligations hereunder, both as of the date hereof and as of the date of the Closing. Accordingly, the Underwriters' obligations under this Purchase Agreement to purchase and pay for the Series 2021 Taxable Bonds and accept delivery thereof shall be conditioned upon and subject to:

(a) the performance by the Issuer and the City of their respective obligations to be performed hereunder and under such other documents and instruments, at and prior to the Closing, or such earlier time as may be specified herein; and

(b) the following additional conditions, including the delivery by the Issuer and the City of such documents as are enumerated herein and contemplated hereby, in form and substance satisfactory to the Representative (unless waived in writing by the Representative on behalf of the Underwriters), and the taking of all such action as shall be necessary and appropriate in connection with the transactions contemplated hereby in the opinions of Co-Bond Counsel and Co-Disclosure Counsel:

- (1) The representations and warranties of the Issuer contained herein shall be true, complete, and correct in all material respects on the date hereof and on and as of the date of the Closing, as if made on the date of the Closing;
- (2) The Issuer and the City shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing;
- (3) At the time of the Closing, (i) the Issuer Documents, the City Documents and the Series 2021 Taxable Bonds shall have been duly executed, delivered, and authenticated, as applicable, shall be in full force and effect and shall not have been amended, modified, repealed, or supplemented in any meaningful way, and the Official Statement shall have been duly executed and delivered and shall not have been supplemented or amended, except in any such case as may have been agreed to by the Representative; and (ii) all actions of the Issuer required to be taken by the Issuer shall be performed in order for Co-Bond Counsel and Ahmad Zaffarese LLC, as counsel to the Underwriters ("Counsel to the Underwriters") to deliver their respective opinions referred to hereafter;
- (4) At the time of the Closing, all official action of the Issuer relating to the Series 2021 Taxable Bonds, the Issuer Documents and the City Documents shall be in full force and effect and shall not have been amended, modified, or supplemented;
- (5) At or prior to the Closing, the Issuer Resolution and the City Resolution shall have been duly adopted by the Issuer and the City, respectively, and the Paying Agent and Registrar shall have duly authenticated the definitive Series 2021

Taxable Bonds;

- (6) At the time of the Closing, there shall not have occurred any change or any development involving a prospective change in the condition, financial or otherwise, or in the revenues or operations of the City[, and the financial projections related to the Project,] from that set forth in the Official Statement that in the reasonable judgment of the Representative, is material and adverse and that makes it, in the reasonable judgment of the Representative, impracticable to market the Series 2021 Taxable Bonds on the terms and in the manner described in the Official Statement;
- (7) The Issuer and the City shall not currently be in default in the payment of principal or interest when due on any of its outstanding obligations for borrowed money;
- (8) No suit, action, investigation, or legal or administrative proceeding shall be threatened or pending before any court or governmental agency which is likely to result in the restraint, prohibition, or the obtaining of damages or other relief in connection with the issuance of the Series 2021 Taxable Bonds or the consummation of the transactions described herein, or which, in the reasonable judgment of the Representative, would have a materially adverse effect on the transactions described herein;
- (9) All steps to be taken and all instruments and other documents to be executed, and all other legal matters in connection with the transactions described in this Purchase Agreement shall be reasonably satisfactory in legal form and effect to the Representative, Co-Bond Counsel and Counsel to the Representative;

(c) at or prior to the Closing, the Representative shall have received each of the following documents:

- (1) the Official Statement and each supplement or amendment thereto, executed on behalf of the Issuer and the City by the Issuer Authorized Officer and the City Authorized Officer, or representatives thereof, if any, in (i) a “designated electronic format” that meets the requirements of Rule G-32 and (ii) a printed format;
- (2) the unqualified approving opinions of Carpenter Law, PLLC and Butler Snow LLP, as co-bond counsel (together, “Co-Bond Counsel”) in substantially the form attached to the Official Statement as APPENDIX C;
- (3) the supplemental opinions of Co-Bond Counsel addressed to the Issuer, the City and the Underwriters, substantially to the effect that:
  - (i) The Underwriters may rely on the approving opinion of Co-Bond

Counsel;

- (ii) the City has duly adopted and enacted the City Resolution, and the City Resolution is in full force and effect;
  - (iii) the Series 2021 Taxable Bonds are exempted securities under the Securities Act of 1933, as amended (the "1933 Act"), and the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act") and it is not necessary, in connection with the offering and sale of the Series 2021 Taxable Bonds, to register the Series 2021 Taxable Bonds under the 1933 Act or to qualify the Indenture under the Trust Indenture Act; and
  - (iv) said Co-Bond Counsel firm has reviewed the statements and information contained in the Official Statement and such firm is of the opinion that the information relating to the Series 2021 Taxable Bonds and legal matters is an accurate and fair description of the laws and legal issues addressed therein and, with respect to the Series 2021 Taxable Bonds, such information conforms to the provisions of the Issuer Resolution; and
- (4) the opinion of Counsel to the Underwriters, in substantially the form attached hereto as EXHIBIT A; provided, however, that the Underwriters shall not be excused from their obligation hereunder to purchase all of the Series 2021 Taxable Bonds if (i) Underwriters' Counsel fails to deliver such opinion for any reason other than a valid legal basis under Rule 10b-5 of the SEC promulgated under the Exchange Act ("Rule 10b-5") and (ii) the City is not granted reasonable notice and opportunity to cure and address the matter giving rise to such valid legal basis under Rule 10b-5 prior to Closing by an amendment or supplement to the Official Statement, as set forth under Section 3(h) hereof;
  - (5) the opinion of Farris Bobango PLC, as general counsel to the Issuer ("Issuer's Counsel") in substantially the form attached hereto as EXHIBIT B;
  - (6) the opinions of Bruce Turner, PLLC and Bass Berry & Sims PLC, as co-disclosure counsel to the City (together, "Co-Disclosure Counsel") [in a form acceptable to the Representative and Counsel for the Underwriters] / [in substantially the form attached hereto as EXHIBIT \_\_\_\_] and reliance letters to the Representative concerning same;
  - (7) the opinion of the Chief Legal Officer/City Attorney [in a form acceptable to the Representative and Counsel for the Underwriters] / [in substantially the form attached hereto as EXHIBIT \_\_\_\_];
  - (8) a closing certificate of the Issuer [in a form reasonably acceptable to the

Underwriters] – OR – [substantially to the effect that:];

- (9) a closing certificate of the City [in a form reasonably acceptable to the Underwriters] – OR – [substantially to the effect that:];
- (10) a certificate of the Issuer and a certificate of the City, dated the date of Closing, each respectively signed by an Issuer Authorized Officer and a City Authorized Officer, to the effect that: (i) the representations and warranties of the Issuer and the City contained herein or in any certificate or document delivered by the Issuer and the City pursuant to the provisions hereof are true and correct in all material respects on and as of the date of Closing as if made on the date of Closing; (ii) no litigation, action, suit or proceeding against the Issuer or the City is pending or, to such person's knowledge, threatened in any court or administrative body nor is there a basis for litigation which would (A) contest the right of the Issuer, the Issuer's governing body, executives and other officials, the Mayor, the City Council, or other officials of the City to hold and exercise their respective positions, (B) contest the due organization and valid existence of the Issuer or the City, (C) contest the validity, due authorization, and execution of the Series 2021 Taxable Bonds or the Issuer Documents, or (D) attempt to limit, enjoin, or otherwise restrict or prevent the City from operating the Project, and collecting TDZ Revenues or appropriating Non Property Tax Revenues to the payment of the Series 2021 Taxable Bonds, pursuant to the Issuer Documents and City Documents; (iii) the official actions of the Issuer and of the City authorizing the execution, delivery, and/or performance of the Official Statement, the Series 2021 Taxable Bonds, the Issuer Documents and the City Documents have been duly adopted by the Issuer or the City, as the case may be, are in full force and effect, and have not been modified, amended, or repealed; (iv) to such person's knowledge, no event affecting the Issuer has occurred since the dates of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein, in light of the circumstances under which they were made, not misleading in any material respect as of the time of Closing, and the information contained in the Official Statement is correct in all material respects and, as of the date of the Official Statement did not, and as of the date of the Closing do not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading; (v) insofar as the descriptions and statements including financial data, of or pertaining to entities, other than the Issuer and the City, and their activities contained in the Preliminary Official Statement and the Official Statement are concerned, such statements and data have been obtained from sources which the Issuer believes to be reliable and the Issuer has no reason to believe that they are untrue in any material respect; and (vi) there has not been

any materially adverse change in the financial condition of the City since June 30, 2020, the latest date as of which audited financial information is available;

- (11) [A letter from the City's auditors consenting to the inclusion of the auditors' letter with the audited financial statements of the City included as an appendix to the Official Statement;]
- (12) A specimen of the Series 2021 Taxable Bonds;
- (13) executed copies of the Issuer Documents (including a copy of the Issuer Resolution certified by the Secretary of the Board of the Issuer as having been duly adopted by the Issuer and as being in effect, with such supplements or amendments as may have been agreed to by the Representative);
- (14) executed copies of the City Documents and the City Resolution (certified by the Comptroller under the City's seal as having been duly adopted by the City and as being in effect, with such supplements or amendments as may have been agreed to by the Representative);
- (15) closing certificates of PFM Financial Advisors, LLC, and ComCap Partners (together, the "Co-Financial Advisors"), [in a form acceptable to the Representative and Counsel for the Underwriters] / [in substantially the form attached hereto as EXHIBIT \_\_\_\_];
- (16) written evidence that: (i) Moody's Investors Service, Inc. ("Moody's"), and (ii) S&P Global Ratings ("S&P") have assigned ratings of at least "[A]" and "[A]", respectively, to the Series 2021 Taxable Bonds;
- (17) a copy of the Issuer's DTC Issuer Blanket Letter of Representation and verification that such letter is in effect with respect to the Series 2021 Taxable Bonds; and
- (18) such additional legal opinions, certificates, proceedings, instruments and other documents as the Representative, Co-Bond Counsel or Co-Disclosure Counsel may reasonably request to evidence compliance by the Issuer or the City with applicable legal requirements, the truth and accuracy as of the Closing Date of the representations of the Issuer and the City herein, and of the statements and information contained in the Preliminary Official Statement and in the Official Statement and the due performance or satisfaction by the Issuer and the City on or prior to the Closing Date of all the agreements then to be performed and conditions then to be satisfied by the Issuer and the City.

All of the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Purchase Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance reasonably satisfactory to the Representative.

If the Issuer shall be unable to satisfy the conditions to the obligations of the Underwriters to purchase, to accept delivery of and to pay for the Series 2021 Taxable Bonds contained in this Agreement, or if the obligations of the Underwriters to purchase, to accept delivery of and to pay for the Series 2021 Taxable Bonds shall be terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate and neither the Underwriters nor the Issuer shall be under any further obligation hereunder, except that the respective obligations of the Issuer and the Underwriters set forth in Sections 3, 10, and 11 hereof shall continue in full force and effect.

**Section 10. Termination of Purchase Agreement.**

(a) The Issuer, at the direction of the City, shall have the right to cancel the obligation to sell and deliver the Series 2021 Taxable Bonds by written notification from the Issuer to the Representative (with a copy to the City) of the election to cancel if:

- (1) the Purchase Agreement is not executed and delivered;
- (2) the Purchase Agreement is terminated pursuant to the terms thereof; or
- (3) the Underwriters fail to purchase all of the respective Series 2021 Taxable Bonds.

(b) The Representative shall have the right to terminate this Purchase Agreement and to cancel the obligation to purchase and accept delivery of the Series 2021 Taxable Bonds hereunder, if, in the sole judgment of the Representative (reasonably exercised, by written notification from the Representative to the Issuer (with a copy to the City) of the election to cancel), at any time after the execution of this Purchase Agreement and prior to the Closing Date, the market price or marketability of the Series 2021 Taxable Bonds, or the ability of the Underwriters to enforce contracts for the sale of the Series 2021 Taxable Bonds, shall be materially adversely affected by any of the following events:

- (1) trading in securities generally on the New York Stock Exchange shall have been suspended or minimum or maximum prices for trading shall have been fixed and be in force, or maximum ranges for prices for securities shall have been required and be in force on the New York Stock Exchange, whether by virtue of a determination by that exchange or by order of the SEC or any other governmental authority having jurisdiction;
- (2) a general banking moratorium shall have been declared by federal, New York or Tennessee banking authorities and be in force or a major financial crisis or a material disruption in commercial banking, securities settlement or clearance services shall have occurred which in the reasonable opinion of the Representative materially adversely affects the market for the Series 2021 Taxable Bonds or the sale, at the contemplated offering prices, by the Underwriters of the Series 2021 Taxable Bonds;

- (3) there shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national emergency or war or other calamity or crisis (including terrorism) the effect of which on financial markets is such as to make it, in the reasonable opinion of the Representative, impractical or inadvisable to proceed with the offering or delivery of the Series 2021 Taxable Bonds as contemplated by the Official Statement;
- (4) legislation shall have been enacted by the legislature of the State of Tennessee, or a ruling, resolution, regulation or temporary regulation, release or announcement shall have been made or shall have been proposed to be made by a state authority with appropriate jurisdiction, with respect to state taxation upon interest received on obligations of the same general character as the Series 2021 Taxable Bonds as contemplated hereby which, in the reasonable opinion of the Representative, materially and adversely affects the market price of the Series 2021 Taxable Bonds;
- (5) a decision by a court of the United States shall be rendered, or a stop order, ruling, regulation, release or no-action letter by or on behalf of the SEC or any other governmental agency having jurisdiction over the subject matter shall be issued or made to the effect that the issuance, offering or sale of the Series 2021 Taxable Bonds, or of obligations of the same general character as the Series 2021 Taxable Bonds as contemplated hereby, or any document relating to the issuance, offering or sale of the Series 2021 Taxable Bonds, is subject to registration or qualification under the Securities Act of 1933, as amended (the "Securities Act"), or the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), or is in violation of any provision of either of such acts or the Exchange Act;
- (6) legislation shall have been enacted, or actively considered for enactment with an effective date prior to Closing Date or legislation shall be favorably reported out of committee to either house of the Congress of the United States or be pending in committee, or shall have been recommended to the Congress for passage by the President of the United States or a member of the President's Cabinet, or a decision by a court of the United States shall be rendered or a ruling, regulation, proposed regulation or statement by or on behalf of the SEC or other governmental agency having jurisdiction of the subject matter herein shall be made, to the effect that securities of the Issuer or of any similar public body are not exempt from the registration, qualification or other requirements of the Securities Act, or the Trust Indenture Act;
- (7) an event or circumstance shall exist which in the reasonable judgment of the Representative causes the Official Statement to contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements



and information contained therein, in light of the circumstances under which they were made, not misleading;

- (8) the purchase of and payment for the Series 2021 Taxable Bonds by the Underwriters, or their resale or reoffering by the Underwriters, on the terms and conditions contemplated by this Purchase Agreement and the Official Statement, is prohibited by any applicable law or governmental regulation or by order of any court, governmental body, board, agency, or commission;
- (9) there shall have occurred or any notice shall have been given of any intended downgrading, suspension, withdrawal or negative change in credit watch status by any national rating service to any of [the Issuer's or] the City's obligations;
- (10) the marketability of the Series 2021 Taxable Bonds or the market price thereof, in the opinion of the Representative, has been materially and adversely affected by disruptive events, occurrences or conditions in the securities or debt markets;
- (11) additional material restrictions not in force on the date of this Purchase Agreement have been imposed on trading in securities generally by a governmental authority or national association of securities dealers;
- (12) any litigation shall be instituted, pending or threatened to restrain or enjoin the issuance or sale of the Series 2021 Taxable Bonds or in any way contesting or affecting any authority for or the validity of the Series 2021 Taxable Bonds, the Issuer Documents or the City Documents, or the existence or powers of the Issuer or the City; or
- (13) any material amendment is made to the Official Statement pursuant to Section 3(c) of this Purchase Agreement which, in the reasonable judgment of the Representative, will materially adversely affect the market price of the Series 2021 Taxable Bonds or the ability of the Underwriters to enforce confirmations for the purchase of the Series 2021 Taxable Bonds.

#### **Section 11. Expenses; Indemnification.**

(a) Except as provided in paragraph (b) below, the Underwriters are under no obligation to pay, and the City, on behalf of the Issuer, shall pay, any expenses incident to the performance of its obligations hereunder, including but not limited to: (1) the cost of the preparation, reproduction, printing, distribution, mailing, execution, delivery, filing and recording, as the case may be, of this Purchase Agreement, the Preliminary Official Statement, the Official Statement, the Issuer Documents, the City Documents and all other agreements and documents required in connection with the consummation of the transactions contemplated hereby; (2) the cost of the preparation, engraving, printing, execution and delivery of the definitive Series 2021 Taxable Bonds; (3) the fees and disbursements of Co-Bond Counsel, Issuer's Counsel, Co-Disclosure Counsel, [Special Counsel], the

Co-Financial Advisors, the Trustee, Trustee's Counsel, the Paying Agent and Registrar, DAC, and any other experts retained by the Issuer or the City; (4) the fees and disbursements of any other engineers, accountants, and other experts, consultants or advisers retained by the Issuer; (5) the initial or acceptance fee of the Paying Agent and Registrar, if any; (6) any fees charged by investment rating agencies for the rating of the Series 2021 Taxable Bonds; and (G) advertising expenses (except any advertising expenses of the Underwriters as set forth in part (b) below); (7) the out-of-pocket, miscellaneous and closing expenses, including the cost of travel, of the officers and trustees of the Issuer; (8) any expenses (included in the expense component of the Underwriters' discount) incurred by the Representative on behalf of the Issuer in connection with the marketing, issuance and delivery of the Series 2021 Taxable Bonds, including but not limited to meals, transportation and lodging of the Underwriters' employees and representatives, approved in advance by the Issuer and the City; and (9) any other expenses reasonably considered expenses of the Issuer which are incident to the transactions described herein. Notwithstanding anything herein to the contrary, the Issuer's obligation to pay expenses shall be limited to amounts available to it from the proceeds of the sale of the Series 2021 Taxable Bonds. The Issuer acknowledges that it has had an opportunity, in consultation with such advisors as it may deem appropriate, if any, to evaluate and consider the fees and expenses being incurred as part of the issuance of the Series 2021 Taxable Bonds.

(b) The Underwriters shall pay: (1) the cost of qualifying the Series 2021 Taxable Bonds under state blue-sky laws and determining their eligibility for investment under the laws of such jurisdictions as the Underwriters may designate, including filing fees and fees and disbursements of Co-Underwriters' Counsel, in connection with such qualification and determination and the review of such laws; (2) the cost of preparing and publishing all advertisements relating to the Series 2021 Taxable Bonds upon commencement of the offering of the Series 2021 Taxable Bonds; (3) the cost of the transportation and lodging for officials and representatives of the Underwriters to attend meetings and the Closing; (4) all other expenses incurred by the Underwriters in connection with the public offering and distribution of the Series 2021 Taxable Bonds, including without limitation, the cost of preparing documents prepared by Underwriters' Counsel and the fees and expenses of Underwriters' Counsel; (5) any fees of the MSRB in connection with the issuance, offering or sale of the Series 2021 Taxable Bonds; and (6) the cost of obtaining a CUSIP number assignment for the Series 2021 Taxable Bonds. The Issuer acknowledges that the Underwriters will pay certain fees from the underwriter's expense allocation of the underwriting discount.

(c) The Underwriters agree to indemnify and hold harmless the Issuer and the City, each of its respective officers, directors, employees and agents and each person, if any, who controls the Issuer or the City within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (the "Indemnified Party") for any costs, expenses, claims, losses or liabilities whatsoever arising from any untrue statement of a material fact or omission of a material fact necessary in order to make the statements made under the caption "UNDERWRITING" in the Preliminary Official Statement or the Official Statement, in which they were made, not misleading.

(d) Within a reasonable time after an Indemnified Party under paragraph (c) of this Section 11 shall have been served with the summons or other first legal process or shall have received written notice of the threat of a claim in respect of which an indemnity may be claimed, such Indemnified Party

shall, if a claim for indemnity in respect thereof is to be made against the Underwriters under this Section 11, notify the Representative in writing of the commencement thereof; but the omission to so notify the Representative shall not relieve it from any liability that it may otherwise have to any Indemnified Party under applicable law other than pursuant to this Section 11. The Underwriters shall be entitled to participate at their own expense in the defense.

(e) No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to indemnification from any person who was not guilty of such fraudulent misrepresentation. This indemnity agreement will be in addition to any liability which the Underwriters may otherwise have.

**Section 12. Representations and Warranties of the Underwriters.** The Representative, on behalf of itself and each Underwriter, represents and warrants to the Issuer and the City that:

(a) The Representative on its own behalf and on behalf of each Underwriter, represents that each is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and is duly authorized to transact business in the State;

(b) The Representative has been duly authorized to execute this Purchase Agreement on behalf of itself and the Underwriters and that it has been authorized to act hereunder on behalf of the Underwriters;

(c) The Representative has the full power and authority to take all actions required or permitted to be taken by the Representative by or under, and to perform and observe the covenants and agreements on its part contained in, this Purchase Agreement;

(d) This Purchase Agreement has been duly executed and delivered by the Representative, on behalf of itself and each Underwriter;

(e) The Representative and each Underwriter, on its own behalf, represents that it is either registered with the Financial Industry Regulatory Authority, Inc. ("FINRA"), as a broker-dealer and the MSRB as a municipal securities dealer, or is otherwise registered with the necessary regulatory authorities required for it to serve as an Underwriter for the Series 2021 Taxable Bonds under this Purchase Agreement and that at all times during the offering and sale of the Series 2021 Taxable Bonds, such entities will continue to be so registered; and

(f) There is no litigation, action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body pending or, to the knowledge of the Representative, threatened against or affecting the Representative or any of the Underwriters, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby or by the Official Statement or the validity and legality of this Purchase Agreement or the Official Statement. To the best of the knowledge of the undersigned authorized signatory of the Representative, the Representative is in compliance with the rules and regulations of FINRA (to the extent it is regulated

by the FINRA) and any other body which regulates the Representative as it relates to all transactions contemplated in this Purchase Agreement or in the Official Statement.

The foregoing representations and warranties of the Representative and the obligations set forth in Section 11(c) herein shall survive the execution and delivery of this Purchase Agreement, the execution and delivery of the Series 2021 Taxable Bonds and the instruments and documents contemplated thereby. The Issuer and the City acknowledge that the Representative makes the representations and warranties contained in paragraphs 12(a), 12(b) and 12(e) reliant upon certain representations made by each of the other Underwriters to the Representative.

Simultaneously with the delivery of this Purchase Agreement, the Representative shall cause to be delivered to the Issuer and the City certificates executed by the properly authorized representatives of each of the Underwriters certifying the matters set forth in this Section 12 with respect to each such firm.

**Section 13. Notices.** All notices, demands and formal actions shall be in writing and mailed, faxed, sent by electronic communication (provided that facsimile and electronic communications must be confirmed by the sender) or hand delivered to: (a) the Issuer, at 100 Peabody Place, Suite 1100 Memphis, Tennessee 38103, Attention: President/CEO, Fax: (901) 527-9224; (b) the City at 125 N. Main Street, Memphis, Tennessee 38103, Attention: Chief Financial Officer, Fax: (901) 576-6193 with a copy to the Chief Legal Officer/City Attorney at 125 N. Main Street, Room 336, Memphis, Tennessee 38103, Fax: (901) 636-6531; and (c) the Representative at Raymond James & Associates, Inc., Fifty North Front Street, 16th Floor, Memphis, Tennessee 38103, Attention: Chad Myers, Managing Director, Fax: (901) 579- 4287.

**Section 14. Parties in Interest.** This Purchase Agreement is made solely for the benefit of the Issuer and the Underwriters (including successors or assigns of the Underwriters) and no other person shall acquire or have any right hereunder or by virtue hereof. This Purchase Agreement may not be assigned by the Issuer. All of the Issuer's and the City's representations, warranties and agreements contained in this Purchase Agreement shall remain operative and in full force and effect, regardless of (i) any investigations made by or on behalf of any of the Underwriters; (ii) delivery of and payment for the Series 2021 Taxable Bonds pursuant to this Purchase Agreement; and (iii) any termination of this Purchase Agreement.

**Section 15. Business Day.** For purposes of this Purchase Agreement, "business day" means any day on which the New York Stock Exchange is open for trading.

**Section 16. Section Headings.** Section headings have been inserted in this Purchase Agreement for convenience of reference only, and it is agreed that such Section headings are not a part of this Purchase Agreement and will not be used in the interpretation of any provisions of this Purchase Agreement.

**Section 17. Counterparts.** This Purchase Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but

all such counterparts shall together constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Purchase Agreement by facsimile, portable document format (PDF), or other electronic means shall be effective as delivery of a manually executed counterpart to this Purchase Agreement.

**Section 18. Benefit.** This Purchase Agreement is made solely for the benefit of the Issuer, the City and the Underwriters (including their successors or assigns) and no other person, partnership, association or corporation shall acquire or have any right hereunder or by virtue hereof.

**Section 19. Effective Date.** This Purchase Agreement shall become effective upon acceptance hereof by the Issuer and the City, and shall be valid and enforceable at the time of such acceptance.

**Section 20. Entire Agreement; Amendment; No Personal Liability; Choice of Law; Severability.** This Purchase Agreement constitutes the entire agreement between the parties hereto with respect to the matters covered hereby, and supersedes all prior agreements and understandings between the parties. This Purchase Agreement may not be amended, supplemented or modified without the written consent of the Issuer, the City and the Representative. None of the officers, directors, employees or agents of the Issuer or the City shall be charged personally by the Underwriters with any liability, or be held liable to the Underwriters under any term or provision of this Purchase Agreement because of its execution or attempted execution, or because of any breach or attempted or alleged breach thereof. The validity, interpretation and performance of this Purchase Agreement shall be governed by the internal laws of the State, without regard to conflict of law principles. If any provision of this Purchase Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative, or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provision or provisions of any constitution, statute, rule of public policy, or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision.

[Execution Pages Follow]

**SIGNATURE PAGE TO  
BOND PURCHASE AGREEMENT**

**REVENUE BONDS, (LIBERTY PARK PROJECT),  
SERIES 2021 (FEDERALLY TAXABLE)**

**RAYMOND JAMES & ASSOCIATES, INC.,**  
on its own behalf and as representative of the  
Underwriters

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

**SIGNATURE PAGE TO  
BOND PURCHASE AGREEMENT**

**REVENUE BONDS (LIBERTY PARK PROJECT),  
SERIES 2021 (FEDERALLY TAXABLE)**

Accepted and agreed to as of the  
date first above written.

**ECONOMIC DEVELOPMENT GROWTH  
ENGINE INDUSTRIAL DEVELOPMENT  
BOARD OF THE CITY OF MEMPHIS AND  
COUNTY OF SHELBY, TENNESSEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

**SIGNATURE PAGE TO  
BOND PURCHASE AGREEMENT**

**REVENUE BONDS (LIBERTY PARK PROJECT),  
SERIES 2021 (FEDERALLY TAXABLE)**

Acknowledged and agreed to as of  
the date first above written.

**CITY OF MEMPHIS, TENNESSEE**

By: \_\_\_\_\_  
Jim Strickland  
Mayor

Date: \_\_\_\_\_



**SCHEDULE I**  
**UNDERWRITERS**

*Schedule I to Bond Purchase Agreement  
City of Memphis, TN Liberty Park Revenue Bonds, Series 2021 (Federally Taxable)*

**SCHEDULE II**  
**SERIES 2021 TAXABLE BONDS**  
**SERIAL BONDS**

<b><u>Maturity</u></b> <b><u>(December 1)</u></b>	<b><u>Principal</u></b> <b><u>Amount</u></b>	<b><u>Interest</u></b> <b><u>Rate</u></b>	<b><u>Price</u></b>	<b><u>Yield</u></b>
2021	\$	%		%
2022				
2023				
2024				
2025				
2026				
2027				
2028				
2029				
2030				
2031				
2032				
2033				
2034				
2035				
2036				
2037				
2038				
2039				
2040				
2041				
2042				
2043				
2044				
2045*				

\*Final Maturity

**Optional Redemption.** The Series 2021 Taxable Bonds maturing on or before [\_\_\_\_], shall not be subject to redemption prior to maturity. The Series 2021 Taxable Bonds maturing on or after [\_\_\_\_] (or portions thereof in authorized denominations of \$5,000 and integral multiples thereof) are subject to optional redemption by the City, on and after [\_\_\_\_], in whole or in part, at any time in such order as determined by the City at a redemption price equal to the principal amount of the Series 2021 Taxable Bonds or portion thereof to be redeemed together with interest accrued thereon to the date fixed for redemption.

C Priced to [\_\_\_\_] par call.

*Schedule II to Bond Purchase Agreement*  
*City of Memphis, TN Liberty Park Revenue Bonds, Series 2021 (Federally Taxable)*

**EXHIBIT A**

**FORM OF OPINION OF COUNSEL TO THE UNDERWRITERS**

[ ], 2021

Raymond James & Associates, Inc.  
Memphis, Tennessee

Re: \$ \_\_\_\_\_ Economic Development Growth Engine Industrial Development  
Board of the City of Memphis and County of Shelby, Tennessee, Revenue Bonds  
(Liberty Park Project), Series 2021 (Federally Taxable)

Dear Raymond James & Associates, Inc.:

We have acted as counsel for Raymond James & Associates, Inc., on behalf of itself and as representative of [ ] (collectively, the "Underwriters"), named in the Bond Purchase Agreement, dated [ ], 2021 (the "Purchase Agreement"), by Raymond James & Associates, Inc., as representative of the Underwriters (the "Representative") and the City of Memphis, Tennessee (the "City") in connection with the purchase and sale by the Underwriters of \$[ ] aggregate principal amount of the City's Revenue Bonds (Liberty Park Project), Series 2021 (the "Series 2021 Taxable Bonds") upon their initial issuance and delivery.

In our capacity as counsel to the Underwriters with respect to the Series 2021 Taxable Bonds, we have participated with representatives of the City, the Underwriters and other parties in the preparation of the Preliminary Official Statement and the Official Statement and have reviewed the contents thereof. In the course of such participation, we have reviewed information furnished to us by, and have participated in conferences with, representatives of the City, the City's Co-Financial Advisors, the City's Co-Disclosure Counsel, the City's Co-Bond Counsel and the Underwriters (as each such party is identified and defined in the Preliminary Official Statement and the Official Statement). We also have reviewed the documents relating to the Series 2021 Taxable Bonds described in the Preliminary Official Statement and the Official Statement, the documents, certificates, letters and opinions delivered to the Underwriters pursuant to the Purchase Agreement, and other documents and records relating to the issuance and sale of the Series 2021 Taxable Bonds. We have relied upon, and have assumed the correctness of, certifications and representations of officials of the City, the City's Co-Financial Advisors, the Underwriters, and upon written opinions of the City's Co-Bond Counsel and the City's Co-Disclosure Counsel. Otherwise, we have not undertaken any independent investigation or verification whatsoever as to the accuracy, completeness, adequacy or fairness of the information contained in the Preliminary Official Statement and the Official Statement, and, without limiting the generality of the foregoing, in particular we have not undertaken any independent investigation or verification with respect to the City's operations and programs or the City's sanitary sewerage system. We also note that pursuant to federal securities laws, the City is responsible for the

statements contained in the Preliminary Official Statement and the Official Statement. Moreover, the limitations inherent in our role as counsel to the Underwriters are such that we cannot and do not assume responsibility for or pass on the accuracy, completeness, adequacy or fairness of statements made in the Preliminary Official Statement and the Official Statement, and we express no view, advice or opinion with respect to the foregoing except as expressly stated in this letter.

Our advice set forth hereinafter is based upon our aforementioned assumptions, review and conferences (which did not extend beyond the date of the Official Statement), is given in reliance upon the accuracy of the information contained in the aforementioned certificates, written opinions, letters and other documents, and is given without having undertaken to independently determine or verify the accuracy, completeness, adequacy or fairness of the information contained in the Preliminary Official Statement and the Official Statement, excepting only the independent review of the documents described hereinabove and the matters of federal laws of the United States and laws of the State of Tennessee described therein. Based solely on and subject to all of the foregoing, in connection with the initial issuance and delivery of the Series 2021 Taxable Bonds on the date hereof, we advise you that, during the course of the activities described hereinabove, no information came to the attention of the attorneys in our firm who rendered legal services in connection with the initial issuance and sale of the Series 2021 Taxable Bonds that causes us to believe that the Preliminary Official Statement as of its date or the Official Statement as of its date and as of the date of this letter (in each case, with respect to the Preliminary Official Statement and the Official Statement, excluding the information described hereinafter as to which we express no advice or opinion) contained or contains any untrue statement of a material fact or omitted or omits any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, we express no view, advice or opinion as to (i) financial statements, or financial, statistical, demographic or other numerical information of any kind, information as to DTC, any other clearing system and their respective book-entry system, or forecasts, projections, trends, estimates, assumptions or expressions of opinion included in the Preliminary Official Statement and/or the Official Statement (including, without limitation, in the appendices thereto), (ii) the information in the Preliminary Official Statement and/or the Official Statement under the captions "BOOK-ENTRY ONLY SYSTEM," "LITIGATION," "TAX MATTERS" and the information in Appendices C, D, and E of the Preliminary Official Statement and/or the Official Statement, (iii) matters of law other than federal laws of the United States and laws of the State of Tennessee, and (iv) in the Preliminary Official Statement, the offering price(s), interest rate(s), maturity date(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery date, ratings and other terms of the Series 2021 Taxable Bonds depending on such matters, all often referred to as "permitted omissions" under Rule 15c2-12 under the Securities Exchange Act of 1934, as amended.

We have not passed upon, and the foregoing is subject to, the validity of the Series 2021 Taxable Bonds and the exclusion from gross income for federal income tax purposes of the interest on the Series 2021 Taxable Bonds, as to which we understand that you are relying upon the opinion, dated the date hereof, of [\_\_\_\_\_], serving as Co-Bond Counsel.

We are issuing this letter to and for sole benefit of the Underwriters in connection with the Underwriters' initial purchase and primary offering of the Series 2021 Taxable Bonds. No person other than the Underwriters may rely upon this opinion without our express prior written consent. This letter may not be utilized by the Underwriters for any other purpose whatsoever. Our engagement as counsel to the Underwriters terminates upon the closing for the issuance and sale of the Series 2021 Taxable Bonds on the date hereof.

We assume no obligation to review or supplement this letter or any opinion or advice contained herein, subsequent to the date hereof, whether by reason of a change in applicable law, by legislative or regulatory action or judicial decision or order, or for any other reason whatsoever. We are passing only upon the matters set forth herein and are not passing upon the accuracy, adequacy or completeness of any statement made in connection with any offer or sale of the Series 2021 Taxable Bonds, except as specifically addressed above.

Very truly yours,

Ahmad Zaffarese LLC

## EXHIBIT B

### FORM OF OPINION OF COUNSEL TO THE ISSUER

[\_\_\_\_\_] , 2021

Raymond James & Associates, Inc.

[insert other underwriters]

As Underwriters under the Bond Purchase Agreement hereinafter mentioned  
c/o Raymond James & Associates, Inc. Memphis, Tennessee

Regions Bank, as Trustee Nashville, Tennessee

Economic Development Growth Engine

Industrial Development Board of the City of Memphis and County of Shelby, Tennessee  
Memphis, Tennessee

Carpenter Law, PLLC, as Co- Bond Counsel  
Memphis, Tennessee

Butler Snow LLP, as Co-Bond Counsel

Memphis, Tennessee Re: \$\_\_\_\_\_ Economic Development Growth Engine Industrial  
Development Board of the City of Memphis and County of Shelby, Tennessee, Revenue Bonds  
(Liberty Park Project), Series 2021 (Federally Taxable)

Dear Recipients:

We have acted as counsel to the Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee (the "Issuer"), a public, nonprofit corporation organized and existing under the laws of the State of Tennessee, pursuant to the provisions of *Tennessee Code Annotated*, Section 7-53-101 *et seq.* as amended (the "Act"), in connection with the issuance of its \$\_\_\_\_\_ Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee, Revenue Bonds (Liberty Park Project), Series 2021 (Federally Taxable), dated the date of original issuance and delivery (the "Bonds"). The Bonds are issued under that certain Trust Indenture (the "Trust Indenture") dated as of \_\_\_\_\_ 1, 2021, between the Issuer and Regions Bank, as bond trustee (the "Trustee"), as supplemented by that certain First Supplemental Trust Indenture (the "First Supplemental Indenture", and together with the Trust Indenture the "Indenture") dated \_\_\_\_\_ 1, 2021.

In rendering this opinion we have (1) examined the Issuer Documents (defined below), the Act, and such other documents, proceedings, records, instruments, certificates, materials and proofs as we have deemed relevant and necessary as a basis for the opinions hereinafter expressed; and with your consent (2) relied, without independent investigation or inquiry, upon the representations and warranties of the parties contained in the Issuer Documents, (b) certificates of certain public officials, and (3) assumed, without independent investigation or inquiry, that all information furnished to us is accurate and complete and the representations and warranties of the parties contained in the Issuer Documents and the certificates are truthful and accurate.

In our examination, we have assumed the authenticity of all documents submitted to us as originals, the conformity to original copies of all documents submitted to us as certified or photo static copies, the authenticity of the originals of such latter documents, and the accuracy of the statements contained in such certificates.

In connection with the opinions expressed herein, we have examined, among other things, such representations, statements and certificates of public officials, the Issuer, officers and representatives of the Issuer and others as we have deemed relevant or proper as a basis for the opinions set forth herein and such other documents as we have deemed relevant as a basis for such opinions including, but not limited to, the following:

- (a) the Indenture;
- (b) a certain Loan Agreement (the "Agreement"), dated as of \_\_\_\_\_ 1, 2021, by and between the Issuer and the City of Memphis (the "City");
- (c) a certain Bond Purchase Agreement (the "Bond Purchase Agreement") dated as of \_\_\_\_\_, 2021, by and among the Issuer, the City and Raymond James & Associates, Inc., as representative of the underwriters named therein;
- (d) Closing certificates of the Issuer;
- (e) Charter of Incorporation of the Issuer, with amendments, certified by the Tennessee Secretary of State;
- (f) Certificate of Existence as to the Issuer dated \_\_\_\_\_, 2021, issued by the Secretary of State of the State of Tennessee, a copy of which is attached hereto;
- (g) Bylaws of the Issuer;
- (h) Resolution of the Board of Directors of the Issuer adopted March \_\_\_\_, 2021; and
- (i) the Bonds.

Based upon the foregoing, and such other information and documents as we have deemed advisable and proper and subject to the assumptions and other qualifications hereinafter stated, we are of the opinion that:

1. The Issuer is a public, nonprofit corporation duly organized and validly existing under the laws of the State of Tennessee.
2. The Issuer has full power to enter into, execute, deliver and perform its obligations under the Bonds, the Indenture, the Agreement, and the Bond Purchase Agreement (collectively, the "Issuer Documents") and to carry out and perform its obligations under the Issuer Documents.
3. The execution and delivery of the issuer Documents have been duly authorized by all necessary action on the part of the Issuer, and the Issuer Documents have been duly executed and

delivered by the Issuer, and, assuming due authorization, execution and delivery by the other parties thereto (other than the Issuer), constitute legal, valid and binding instruments enforceable against the Issuer in accordance with their respective terms, except to the extent that (a) the enforceability thereof may be limited by future proceedings under bankruptcy, moratorium, reorganization, fraudulent conveyances, avoidable preferences, debt arrangement, insolvency, or other laws or equitable principals of general application from time to time affecting the rights of creditors and secured parties generally (regardless whether the application of such principles is considered in a proceeding in equity or at law); (b) a particular court may refuse to grant certain equitable remedies, including, without limitation, specific performance, with respect to the enforcement of any provisions of said documents; and (c) the indemnity provisions may be invalid or contrary to public policy.

We further express no opinion as to the enforceability of any provisions of the Issuer Documents (a) restricting access to legal or equitable remedies, (b) purporting to establish evidentiary standards or waiving or affecting any rights to notice, demand, or exhaustion of collateral, or (c) relating to self-help, subordination, delay, omission to enforce rights or remedies, indemnity, severability, equal or ratable liens, equitable liens, marshaling of assets, or transfer of licenses or permits through foreclosure.

4. The execution and delivery of the Issuer Documents and the Issuer's performance of, and compliance by the Issuer with, the provisions of the Issuer Documents do not and will not in any material respect conflict with, or result in the breach of, or constitute a default under the Charter of Incorporation, as amended, of the Issuer or Bylaws of the Issuer or, to the best of our knowledge, any provision of any judgment, order, decree, indenture, agreement or instrument binding on the Issuer.

5. No additional or further approval, consent, or authorization of any governmental or public agency or authority not already obtained is required by the Issuer in connection with the issuance and sale of the Bonds (excepting only federal and state securities laws as to which the undersigned expresses no opinion) or the entering into and performing of its obligations under the Issuer Documents.

6. The Issuer has authorized the execution, delivery and distribution of the Preliminary Official Statement dated \_\_\_\_\_, 2021, of the Issuer and the City in connection with the offering of the Bonds (the "Preliminary Official Statement"), and the use thereof by the Underwriters in connection with the public offering and sale of the Bonds, and the Official Statement has been duly executed and delivered by the Issuer.

7. The information contained in the Preliminary Official Statement and the Official Statement under the caption "THE ISSUER" and the sub-caption "LITIGATION - The Issuer" are accurate statements.

Without limitation on any other qualifications or assumptions expressed elsewhere in this letter, the foregoing opinions are subject in their entirety to the following additional qualifications and assumptions:

(a) We have assumed that all parties to the Issuer Documents and the transactions contemplated thereby, other than the Issuer, have been and will be acting with all requisite power and authority, that all actions of officials of such other parties have been and will be duly authorized and that all undertakings of such other parties are legal, valid and binding



obligations thereof enforceable in accordance with their terms and are in accordance with all applicable laws and regulations.

(b) We do not intend to, and do not, make any representation or express any opinion herein as to: the value of any collateral or property; the existence of any particular category of collateral or property; title to any real or personal property; the priority of any security interest or of any other interest in real or personal property; the perfection of any security interest or of any other interest in real or personal property; or the adequacy or sufficiency of any security.

(c) Whenever any statement or opinion herein is qualified by the phrase "to the best of our knowledge," this means the conscious awareness of the applicable facts or other information by Mark E. Beutelschies and Stephen L. Anderson, the lawyers in this firm primarily responsible for representing the Issuer and that in making such statement or rendering such opinion they have relied exclusively with respect to factual matters upon statements of or information furnished by representatives of the Issuer, without any further investigation or inquiry.

(d) In rendering the opinion set forth in paragraph 1 above as to the existence and good standing of the Issuer, we have conclusively relied on the Certificate of Existence as to the Issuer issued by the Tennessee Secretary of State.

(e) We have assumed the genuineness of all signatures (other than signatures on behalf of Issuer actually witnessed by us), the legal capacity of all natural persons, and the conformity to originals of all documents submitted to us as photocopies, fax copies, electronic copies or conformed copies.

(f) Our opinion is limited to the matters specifically addressed herein and we express no opinion and no opinion is to be inferred or implied on any other matters not specifically addressed in this opinion. This opinion is delivered as of the date hereof and is based on the current state of the law. We undertake no obligation to update or supplement the matters discussed herein.

(g) We express no opinion as to the laws of any jurisdiction other than the State of Tennessee on matters expressly addressed hereinabove. No opinion is expressed herein with respect to any party to the Issuer Documents other than the Issuer.

(h) The opinions set forth herein are limited to the laws of Tennessee and we express no opinion with respect to the effect of any federal laws or any laws of any other jurisdiction. We express no opinion herein as to whether or not the interest payable on the Bonds is exempt from federal income tax or State of Tennessee taxation and no opinion as to any Federal or State laws relating to the offering or sale of securities. We express no opinion regarding the effect or requirements of Tennessee securities or blue-sky laws. We express no opinion as to any usury laws.

(i) We have not passed upon any matters relating to the business, affairs or condition (financial or otherwise) of the Issuer or the City and no inference should be drawn that we have expressed any opinion on matters relating to the ability of the Issuer (other than its legal ability) or the City to perform their obligations under the Issuer Documents or the

completeness or accuracy of any disclosure to the purchasers of the Bonds by any party in connection with or the purchase of the Bonds.

This opinion letter is solely for your benefit. This opinion may not be delivered to or relied upon by any other person other than you, and is to be relied upon only in connection with this transaction.

## DAC Bond°

PRELIMINARY OFFICIAL STATEMENT DATED [\_\_\_\_], 2021

**NEW ISSUE - BOOK-ENTRY ONLY**

**RATINGS: See "RATINGS" herein.**

*This cover page contains limited information for quick reference only. It is not a summary of the matters relating to the Series 2021 Bonds (as defined herein). Potential investors must read the entire Official Statement (including the cover page and all appendices attached hereto) to obtain information essential to the making of an informed investment decision.*

\$[\_\_\_\_]\*

**ECONOMIC DEVELOPMENT GROWTH ENGINE  
INDUSTRIAL DEVELOPMENT BOARD OF THE  
CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE**

**REVENUE BONDS (LIBERTY PARK PROJECT),  
SERIES 2021 (FEDERALLY TAXABLE)**

**Dated: Date of Delivery** Due: December 1, as shown on the inside front cover page

**Tax Treatment:** *In the opinion of Co-Bond Counsel, interest on the Series 2021 Bonds (defined below) is included in gross income for federal income tax purposes. Co-Bond Counsel is further of the opinion that, under existing law, the Series 2021 Bonds and the income therefrom shall be free from all state, county and municipal taxation in the State of Tennessee, except inheritance, transfer and estate taxes, and Tennessee franchise and excise taxes. For a more complete description, see "TAX MATTERS" herein.*

**Authority for Issuance:** This Official Statement relates to the issuance and sale by the Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee (the "Issuer") of the Issuer's \$[\_\_\_\_]\* Revenue Bonds (Liberty Park Project), Series 2021 (Federally Taxable) (the "Series 2021 Bonds"). The Series 2021 Bonds are being issued by the Issuer pursuant to, among other things, that certain Trust Indenture (the "Trust Indenture"), as supplemented by that certain First Supplemental Trust Indenture (the "First Supplemental Indenture," and together with the Trust Indenture, the "Indenture"), each to be dated as of [\_\_\_\_], 2021, between the Issuer and Regions Bank, as bond trustee (the "Bond Trustee"). See "SECURITY AND SOURCES OF PAYMENT" herein and "APPENDIX A - DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE

INDENTURE AND THE LOAN AGREEMENT" attached hereto.

**Terminology:**

All capitalized terms used in this Official Statement and not otherwise defined herein will have the meanings ascribed to such terms in the Trust Indenture. See "APPENDIX A - DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto.

**Purpose:**

Pursuant to the Indenture, the proceeds of the Series 2021 Bonds will be used to, among other things, provide funds to make a loan (the "Loan") to the City of Memphis, Tennessee (the "City") pursuant to the Loan Agreement dated as of [\_\_\_\_], 2021 (the "Loan Agreement"), between the Issuer and the City. The City will use the proceeds of the Loan, together with other money, to: (a) pay the costs of the Project, including interest on the Series 2021 Bonds during construction of any Project and for two years after the estimated date of completion of such Project; (b) pay certain expenses incurred in connection with the issuance of the Series 2021 Bonds; (c) fund the Series 2021 Bonds Debt Service Reserve Account within the Debt Service Reserve Fund; and (d) pay or provide for the payment of the Series 2021 Bonds or any portion thereof, all as permitted under the provisions of Sections 7-53-101, *et seq.*, of the Tennessee Code Annotated (as the same may from time to time be amended, the "Act"). See "THE PROJECT," "PLAN OF FINANCING" and "ESTIMATED SOURCES AND USES OF FUNDS" herein.

**Book-Entry Only System:**

The Series 2021 Bonds will be dated their date of delivery and will be issued only in fully registered form, without coupons, in authorized denominations of \$5,000 or any integral multiple thereof equal to the principal amounts shown on the inside front cover page of this Official Statement relating to the respective series of the Series 2021 Bonds. The Series 2021 Bonds initially will be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), which will act as securities depository for the Series 2021 Bonds. Purchases of beneficial ownership interests in the Series 2021 Bonds will be made in book-entry form only and purchasers will not receive physical delivery of certificates representing their beneficial ownership interests in the Series 2021 Bonds unless the book-entry only system is discontinued. See "THE SERIES 2021 BONDS" and "BOOK-ENTRY ONLY SYSTEM" herein.

**Payment Dates:**

The Series 2021 Bonds will bear interest and mature on the dates set forth on the inside front cover page of this Official Statement. Interest on the Series 2021 Bonds is payable semiannually on June 1 and December 1 of each year, commencing December 1, 2021. Principal of the Series 2021 Bonds is payable on December 1 of each year, commencing December 1, 20[ ]\*. Payments of principal of and interest on the Series 2021 Bonds will be made to purchasers of beneficial interests in the Series 2021 Bonds by DTC Participants (as defined herein). See "THE SERIES 2021 BONDS" herein.

**Security:**

The Series 2021 Bonds are limited obligations of the Issuer payable primarily from TDZ Revenues (as defined herein) received by the City and paid to the Bond Trustee in accordance with the provisions of the Loan Agreement. The Series 2021 Bonds will be secured by a temporary Debt Service Reserve Account that has no requirement of replenishment and will have no reserve funding requirement after [ ], 202[7]. In addition, to the extent of any deficiency in the TDZ Revenues, the Series 2021 Bonds are also payable from Non-Property Tax Revenues (as defined herein) to be received by the City and paid to the Bond Trustee in accordance with the provisions of the Loan Agreement. Pursuant to the Loan Agreement, the City has covenanted and agreed to appropriate and pay from Non-Property Tax Revenues money sufficient, together with other money on deposit in the Debt Service Fund, to pay the principal of and interest on the Series 2021 Bonds when due. The City's payments and prepayments payable to the Issuer under the Loan Agreement (excluding Unassigned Rights as defined herein) have been assigned by the Issuer to the Bond Trustee as part of the Trust Estate (as defined herein) to secure the Series 2021 Bonds. Pursuant to the Indenture, the Trust Estate is pledged to the payment of the principal of, premium, if any, and interest on the Series 2021 Bonds and may be pledged to additional series of Bonds. See "SECURITY AND SOURCES OF PAYMENT" and "CERTAIN INVESTMENT CONSIDERATIONS" herein and "APPENDIX A – DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto.

THE SERIES 2021 BONDS AND THE INTEREST THEREON DO NOT NOW AND SHALL NEVER CONSTITUTE A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE STATE OR ANY POLITICAL

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\* Preliminary, subject to change.

SUBDIVISION THEREOF INCLUDING, WITHOUT LIMITATION, THE CITY AND SHELBY COUNTY (THE "COUNTY"), AND THE SERIES 2021 BONDS AND THE INTEREST THEREON DO NOT NOW AND SHALL NEVER CONSTITUTE A DEBT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING, WITHOUT LIMITATION, THE CITY AND THE COUNTY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF INCLUDING, WITHOUT LIMITATION, THE CITY AND THE COUNTY, SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE SERIES 2021 BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER THAT MAY BE UNDERTAKEN BY THE ISSUER. NO BREACH BY THE ISSUER OF ANY SUCH PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT SHALL IMPOSE ANY LIABILITY, PECUNIARY OR OTHERWISE, UPON THE STATE OR ANY POLITICAL SUBDIVISION THEREOF INCLUDING, WITHOUT LIMITATION, THE CITY AND THE COUNTY, OR ANY CHARGE UPON THEIR GENERAL CREDIT OR TAXING POWER. THE ISSUER HAS NO TAXING POWER, AND THE BONDS AND THE INTEREST THEREON DO NOT NOW AND SHALL NEVER CONSTITUTE A CHARGE AGAINST THE GENERAL CREDIT OF THE ISSUER.

**Redemption:**

The Series 2021 Bonds are subject to redemption prior to maturity, as described herein. See "THE SERIES 2021 BONDS – Redemption Provisions" herein.

*The Series 2021 Bonds are being offered when, as, and if issued by the City and received by the Underwriters (as defined herein) subject to prior sale and to withdrawal or modification of the offer without notice and subject to the approving opinions of Carpenter Law, PLLC, Memphis, Tennessee, and Butler Snow LLP, Memphis, Tennessee, as Co-Bond Counsel to the City. Certain legal matters will be passed upon for the City by Jennifer Sink, Chief Legal Officer / City Attorney. Certain legal matters will be passed upon for the City by Bass, Berry & Sims PLC, Nashville, Tennessee, and Bruce Turner, PLLC, Memphis, Tennessee, as Co-Disclosure Counsel. Certain legal matters will be passed upon for the Underwriters by Ahmad Zaffarese LLC, Memphis, Tennessee, as Underwriters' Counsel. ComCap Partners, Memphis, Tennessee, and PFM Financial Advisors LLC, Memphis, Tennessee, are serving as Co-Financial Advisors to the City for the issuance of the Series 2021 Bonds. The Series 2021 Bonds are expected to be delivered through the book-entry only system of DTC on or about \_\_\_\_\_, 2021.*

**Raymond James**

Dated: \_\_\_\_\_, 2021

**MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES,  
PRICES OR YIELDS AND CUSIPS<sup>†</sup>**

\$[ ]\*

**Economic Development Growth Engine Industrial Development Board  
of the City of Memphis and County of Shelby, Tennessee**

**Revenue Bonds (Liberty Park Project),  
Series 2021 (Federally Taxable)**

<b>Maturity (December 1)*</b>	<b>Principal Amount*</b>	<b>Interest Rate</b>	<b>Price</b>	<b>Yield</b>	<b>Initial CUSIP No.<sup>†</sup></b>
2024	\$				
2025					
2026					
2027					
2028					
2029					
2030					
2031					
2032					
2033					
2034					
2035					
2036					
2037					
2038					
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2041					
2042					
2043					
2044					
2045					
2046					
2047					
2048					
2049					
2050					
2051					
2052					
2053					

\$[ ]\* - \_\_\_\_% Term Bond, Due December 1, 20[ ]\*,  
Price \_\_\_\_ Yield \_\_\_\_%, Initial CUSIP No. \_\_\_\_\_

<sup>†</sup> Copyright, American Bankers Association (the "ABA"). Initial CUSIP data herein are provided by CUSIP Global Services, which is managed on behalf of the ABA by S&P Global Market Intelligence, a division of S&P Global Inc. The CUSIP numbers listed above are being provided solely for the convenience of purchasers of the Series 2021 Bonds only at the time of issuance of the Series 2021 Bonds, and the City makes no representation with respect to such numbers nor undertakes any responsibility for their accuracy now or at any time in the future. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Series 2021 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of such maturity or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Series 2021 Bonds. Preliminary, subject to change.



**ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE**

**President**

Reid Dulberger

**Board Members**

Al Bright, Jr., Chairman  
Thomas Dyer, Vice Chairman  
Larry Jackson, Treasurer  
Dr. Florence Jones, Secretary  
Gerre Currie  
Natasha Donerson

City Councilman Edmund Ford, Sr.\*  
Mark J. Halperin  
County Commissioner Mickell M. Lowery\*  
Johnny B. Moore  
Cary Vaughn

**CITY OF MEMPHIS, TENNESSEE  
ELECTED OFFICIALS**

**Mayor**

Jim Strickland

**City Council**

Frank Colvett, Jr., Chairman  
Jamita Swearengen, Vice Chair  
J. Ford Canale  
Chase Carlisle  
Michalyn Easter-Thomas  
Edmund Ford, Sr.  
Cheyenne Johnson  
Martavious Jones  
Rhonda Logan  
Worth Morgan  
Patrice Robinson  
JB Smiley, Jr.  
Dr. Jeff Warren

**CONSULTANTS TO THE ISSUER AND THE CITY**

**Co-Bond Counsel to the City**

Carpenter Law, PLLC  
Memphis, Tennessee

Butler Snow LLP  
Memphis, Tennessee

**General Counsel to the Issuer**

Farris Bobango PLC  
Memphis, Tennessee

**Co-Disclosure Counsel to the City**

Bruce Turner, PLLC  
Memphis, Tennessee

Bass Berry & Sims PLC  
Nashville, Tennessee

**Co-Financial Advisors to the City**

ComCap Partners  
Memphis, Tennessee

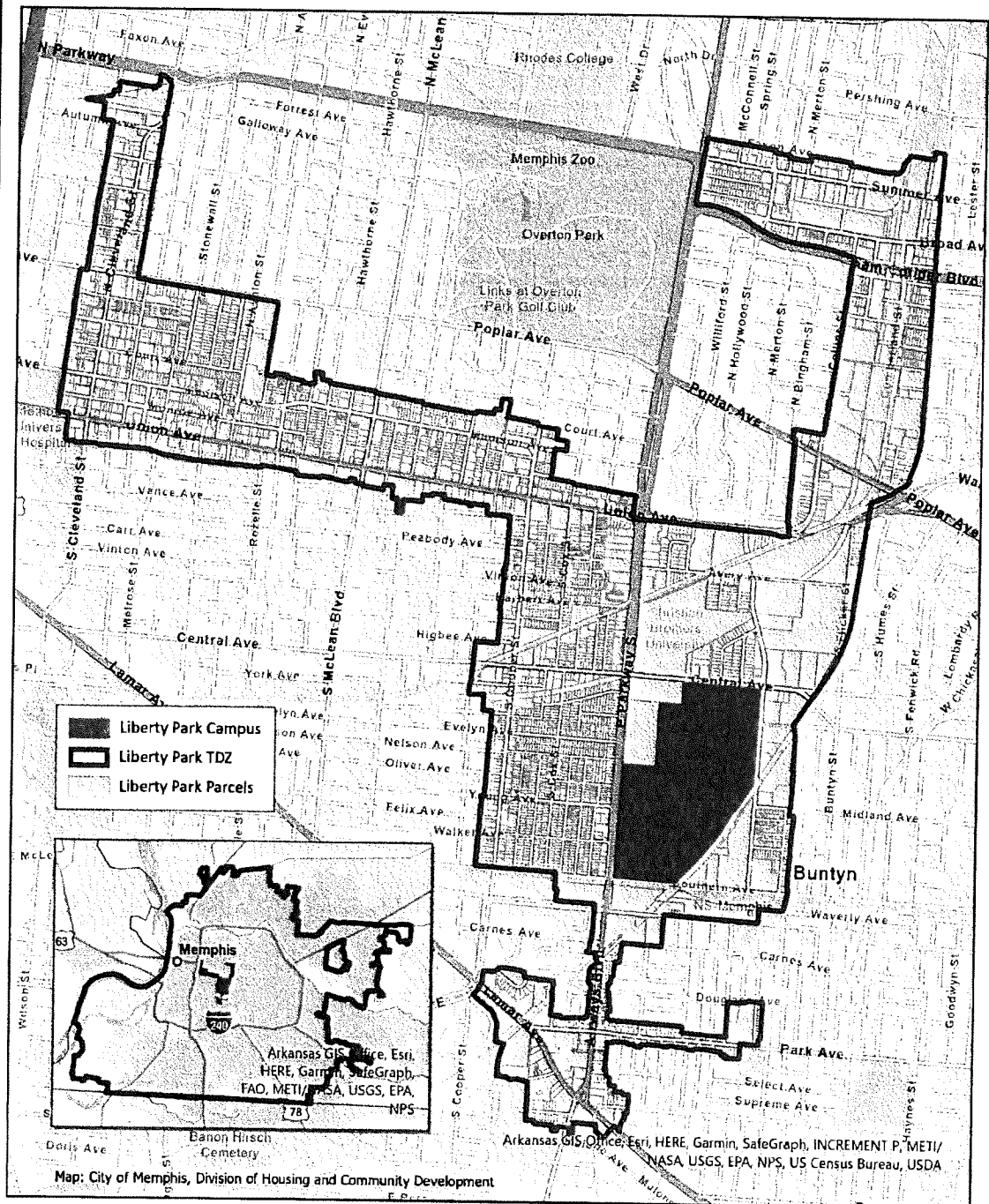
PFM Financial Advisors, LLC  
Memphis, Tennessee

**Underwriters' Counsel**

Ahmad Zaffarese LLC  
Memphis, Tennessee

\* Ex officio non-voting Board member.

## Memphis Liberty Park TDZ Boundaries



This Official Statement does not constitute a contract among the Issuer, the City or the Underwriters and any one or more owners of the Series 2021 Bonds, nor does it constitute an offer to sell or the solicitation of an offer to buy the Series 2021 Bonds in any jurisdiction to any person to whom it is unlawful to make such an offer in such jurisdiction.

No dealer, salesman or any other person has been authorized by the Issuer, the City or the Underwriters to give any information or to make any representations, other than those contained in this Official Statement, in connection with the offering of the Series 2021 Bonds, and if given or made, such information or representations must not be relied upon as having been authorized by the Issuer, the City or any other person. The information and expressions of opinion in this Official Statement are subject to change without notice, and this Official Statement speaks only as of its date. Neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create the implication that there has been no change in the matters described herein since the date hereof. Except as otherwise indicated, the information contained in this Official Statement, including in the appendices attached hereto, has been obtained from representatives of the Issuer, the City and from public documents, records and other sources considered to be reliable.

THIS PRELIMINARY OFFICIAL STATEMENT IS IN A FORM DEEMED FINAL BY THE ISSUER FOR PURPOSES OF RULE 15c2-12 ISSUED UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, EXCEPT FOR CERTAIN INFORMATION PERMITTED TO BE OMITTED PURSUANT TO RULE 15c2-12(b)(1).

IN CONNECTION WITH THE OFFERING OF THE SERIES 2021 BONDS, THE UNDERWRITERS MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2021 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

THE SERIES 2021 BONDS HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, NOR HAS THE INDENTURE BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH ACTS. THE REGISTRATION OR QUALIFICATION OF THE SERIES 2021 BONDS IN ACCORDANCE WITH APPLICABLE PROVISIONS OF THE SECURITIES LAWS OF THE STATES, IF ANY, IN WHICH THE SERIES 2021 BONDS HAVE BEEN REGISTERED OR QUALIFIED AND THE EXEMPTION FROM REGISTRATION OR QUALIFICATION IN CERTAIN OTHER STATES CANNOT BE REGARDED AS A RECOMMENDATION THEREOF. NEITHER THESE STATES NOR ANY OF THEIR AGENCIES HAVE PASSED UPON THE MERITS OF THE SERIES 2021 BONDS OR THE ACCURACY OR COMPLETENESS OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

In making an investment decision, investors must rely on their own examination of the Issuer, the City and the terms of the offering, including the merits and risks involved. The Series 2021 Bonds have not been recommended by any federal or state securities commission or regulatory authority. Any representation to the contrary may be a criminal offense.

The order and placement of information in this Official Statement, including the appendices attached hereto, are not an indication of relevance, materiality or relative importance and this Official Statement, including the appendices attached hereto, must be read in its entirety. The captions and headings in this Official Statement are for convenience only and in no way define, limit or describe the scope or intent, or affect the meaning or construction, of any provision or section in this Official Statement.

References to website addresses presented herein, if any, are for informational purposes only and may be in the form of a hyperlink solely for the reader's convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this Official Statement for any purpose, including for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission.

## TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION .....	1
General.....	1
The Issuer.....	2
The City .....	2
Authority for Issuance .....	2
Purpose of the Series 2021 Bonds .....	2
The Project.....	3
Description of the Series 2021 Bonds.....	3
Security and Sources of Payment .....	3
Trustee, Paying Agent and Registrar .....	4
Continuing Disclosure .....	5
Other Information .....	5
THE ISSUER .....	5
THE CITY .....	7
THE PROJECT .....	7
The Sports & Events Center .....	7
The Private Development .....	8
Campus Infrastructure Improvements .....	8
Other Improvements .....	8
The Liberty Park TDZ .....	9
PLAN OF FINANCING .....	9
ESTIMATED SOURCES AND USES OF FUNDS .....	10
THE SERIES 2021 BONDS.....	10
Authority for Issuance .....	10
General Description of the Series 2021 Bonds.....	10
Redemption Provisions .....	11
Registration Provisions .....	15
Transfer and Exchange .....	15
BOOK-ENTRY ONLY SYSTEM.....	16
ANNUAL DEBT SERVICE REQUIREMENTS .....	19
SECURITY AND SOURCES OF PAYMENT .....	21
General.....	21
Trust Estate .....	21
Priority of Right, Lien and Privilege under the Indenture .....	22
TDZ Revenues .....	22
Pro Forma Debt Service Coverage of the Series 2021 Bonds from TDZ Revenues .....	23
Non-Property Tax Revenues.....	25
<i>Historical Collection of Non-Property Tax Revenues</i> .....	27
<i>Contingent Obligations</i> .....	28
<i>Unconditional Obligations</i> .....	30
<i>General Fund Obligations</i> .....	32
<i>Revenues, Expenditures and Changes in Fund Balance for the City's General Fund</i> .....	33
<i>Issuance of Additional Obligations Payable from Non-Property Tax Revenues</i> .....	35

<i>Recently Adopted and Pending Legislation Affecting Non-Property Tax Revenues</i> .....	35
Flow of Funds Under the Indenture .....	36
Debt Service Fund .....	37
Debt Service Reserve Fund – Temporary Debt Service Reserve Requirement for the Series	
2021 Bonds .....	38
Other Funds .....	39
Issuance of Additional Bonds .....	40
Refunding Bonds .....	41
Limited Obligations .....	41
SALES TAX IMPACT ANALYSIS .....	41
RKG .....	41
Executive Summary of the Sales Tax Impact Analysis .....	42
CERTAIN INVESTMENT CONSIDERATIONS .....	42
General .....	42
Enforceability of Remedies .....	43
Early Payment Prior to Maturity .....	43
Non-Recourse Obligation .....	43
Considerations Relating to TDZ Revenues .....	44
Considerations Relating to Non-Property Tax Revenues .....	45
Limitations on Remedies .....	46
Secondary Market Prices .....	47
Seismic Risks .....	47
Climate Change .....	47
Cyber Security .....	48
COVID-19 .....	48
TAX MATTERS .....	51
Series 2021 Bonds – Federal Tax Consequences .....	51
State of Tennessee Taxes .....	54
Changes in Federal and State Tax Law .....	55
LITIGATION .....	55
The Issuer .....	55
The City .....	55
CONTINUING DISCLOSURE .....	57
LEGAL MATTERS .....	59
CO-FINANCIAL ADVISORS .....	59
RATINGS .....	60
UNDERWRITING .....	60
FORWARD-LOOKING STATEMENTS .....	60
MISCELLANEOUS .....	61
AUTHORIZATION OF AND CERTIFICATION CONCERNING OFFICIAL STATEMENT	63
APPENDIX A     -   DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT	
APPENDIX B     -   SALES TAX IMPACT ANALYSIS FOR THE MEMPHIS SPORTS & EVENTS CENTER AND TDZ	

APPENDIX C	-	FORM OF CONTINUING DISCLOSURE AGREEMENT
APPENDIX D	-	FORM OF OPINIONS OF CO-BOND COUNSEL

## OFFICIAL STATEMENT

relating to

\$[ ]\*

### ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE

### REVENUE BONDS (LIBERTY PARK PROJECT), SERIES 2021 (FEDERALLY TAXABLE)

## INTRODUCTION

### General

The purpose of this Official Statement, which includes the cover page and the appendices attached hereto, is to provide certain information in connection with the issuance and sale by the Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee (the "Issuer") of its \$[ ]\* Revenue Bonds (Liberty Park Project), Series 2021 (Federally Taxable) (the "Series 2021 Bonds"), pursuant to, among other things, that certain Trust Indenture (the "Trust Indenture"), as supplemented by that certain First Supplemental Trust Indenture (the "First Supplemental Indenture," and together with the Trust Indenture, the "Indenture"), each to be dated as of [ ], 2021, between the Issuer and Regions Bank, as bond trustee (the "Bond Trustee"). The proceeds of the Series 2021 Bonds will be loaned by the Issuer to the City pursuant to that certain Loan Agreement to be dated as of [ ], 2021, between the City and the Issuer (the "Loan Agreement"). See "SECURITY AND SOURCES OF PAYMENT" herein and "APPENDIX A DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto.

*This introduction is not a summary of this Official Statement and is intended only for quick reference. It is only a brief description of and guide to, and is qualified in its entirety by reference to, the more complete and detailed information contained in the entire Official Statement, including the cover page and the appendices attached hereto, and the documents summarized or described herein. A full review should be made of the entire Official Statement and of the documents summarized or described herein, if necessary. The offering of the Series 2021 Bonds to potential investors is made only by means of the entire Official Statement, including the appendices attached hereto. No person is authorized to detach this Introduction from this Official Statement or to otherwise use it without the entire Official Statement, including the appendices attached hereto.*

\* Preliminary, subject to change.



All capitalized terms used herein and not otherwise expressly defined herein shall have the respective meanings set forth in "APPENDIX A – DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto.

### **The Issuer**

The Issuer is a public nonprofit corporation organized under the laws of the State of Tennessee (the "State") created under the provisions of Sections 7-53-101, *et seq.*, of the Tennessee Code Annotated (as the same may from time to time be amended, the "Act"). The Issuer's purpose is to streamline and expand economic development programs within the City and Shelby County, Tennessee (the "County"). The Issuer also manages The Industrial Development Board of Memphis and Shelby County, The Port of Memphis, The Depot Redevelopment Corporation of Memphis and Shelby County, Foreign Trade Zone 77, the Regional Economic Development Plan for Memphis and Shelby County, and the Greater Memphis Alliance for a Competitive Workforce. In addition, the Issuer acts as the economic development agency for the City and the County. See "THE ISSUER" herein.

### **The City**

The City of Memphis, Tennessee (the "City"), is a municipal corporation organized under the laws of the State of Tennessee (the "State"). The City is located on the east bank of the Mississippi River in the southwest corner of the State. The City is the State's largest city not having a metropolitan form of government and is the county seat of the County. For information regarding the economics, demographics and governance of the City, see "THE CITY" herein.

### **Authority for Issuance**

The Series 2021 Bonds are being issued in accordance with the provisions of the Act, the Indenture, and resolutions adopted and approved by the Issuer and the City, authorizing, among other things, the execution and delivery of the Indenture and the Loan Agreement and the issuance and sale of the Series 2021 Bonds. See "THE SERIES 2021 BONDS – Authority for Issuance" herein.

### **Purpose of the Series 2021 Bonds**

The proceeds of the Series 2021 Bonds will be loaned to the City and will be used to: (a) pay the costs of the Project, including interest on the Series 2021 Bonds; (b) pay certain expenses incurred in connection with the issuance of the Series 2021 Bonds during construction of the Project and for two years after the estimated date of completion of the Project; (c) fund the Series 2021 Bonds Debt Service Reserve Account within the Debt Service Reserve Fund; and (d) pay or provide for the payment of the Series 2021 Bonds or any portion thereof, all as permitted under the provisions of the Act. See "THE PROJECT," "PLAN OF FINANCING" and "ESTIMATED SOURCES AND USES OF FUNDS" herein.

## **The Project**

The City proposes to redevelop the public area of the City known as "Liberty Park" and formerly known as the "Memphis Fairgrounds." The redevelopment of Liberty Park will include the construction of a 230,000 square-foot sports and events center (the "Sports & Events Center"), a hospitality and mixed-use private development (the "Private Development"), upgrades to Liberty Bowl Memorial Stadium and various campus improvements for the benefit of the community. Proceeds of the Series 2021 Bonds will be used to fund construction of the Sports & Events Center, site preparation for the proposed Private Development and various campus improvements (collectively, the "Project").

## **Description of the Series 2021 Bonds**

The Series 2021 Bonds will bear interest and mature on the dates set forth on the inside front cover page of this Official Statement. Interest on the Series 2021 Bonds is payable semiannually on June 1 and December 1 of each year, commencing December 1, 2021. Principal of the Series 2021 Bonds is payable on December 1 of each year, commencing December 1, 20[ ]. Payments of principal of and interest on the Series 2021 Bonds will be made to purchasers of beneficial interests in the Series 2021 Bonds by DTC Participants (as defined herein).

The Series 2021 Bonds will be issued only in fully registered form, without coupons, in authorized denominations of \$5,000 or any integral multiple thereof equal to the principal amounts shown on the inside front cover page of this Official Statement and initially will be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), which will act as securities depository for the Series 2021 Bonds. Purchases of beneficial ownership interests in the Series 2021 Bonds will be made in book-entry form only and purchasers will not receive physical delivery of certificates representing their beneficial ownership interests in the Series 2021 Bonds unless the book-entry only system is discontinued. See "BOOK-ENTRY ONLY SYSTEM" herein.

The Series 2021 Bonds are subject to redemption prior to maturity as more fully described herein. See "THE SERIES 2021 BONDS - Redemption Provisions" herein.

For a more complete description of the Series 2021 Bonds, see "THE SERIES 2021 BONDS" herein.

## **Security and Sources of Payment**

The Series 2021 Bonds are limited obligations of the Issuer payable primarily from TDZ Revenues (as defined herein) received by the City and paid to the Bond Trustee in accordance with the provisions of the Loan Agreement. The Series 2021 Bonds will be secured by the Series 2021 Bonds Debt Service Reserve Account to be held in trust for the owners of the Series 2021 Bonds under the terms of the Indenture and which will initially be funded from proceeds of the Series 2021 Bonds in the amount of \$[ ], which amount is equal to [debt service] on the Series 2021 Bonds until [ ]. The Debt Service Reserve Requirement for the Series 2021 Bonds will be \$[ ] until [ ], 202[7], after which time the Debt Service Reserve Requirement will be \$0. [To the extent that the Bond Trustee makes any draws on the Series 2021 Bonds Debt Service Reserve Account to pay debt service on the Series 2021 Bonds,

**neither the Issuer nor the City will be required to replenish the monies in the Series 2021 Bonds Debt Service Reserve Account in an amount equal to the Debt Service Reserve Requirement for the Series 2021 Bonds prior to [\_\_\_\_], 202[7].]**

To the extent of any deficiency in the TDZ Revenues and after the application of any funds in the Series 2021 Bonds Debt Service Reserve Account and Surplus Fund (to the extent that funds are available therein), the Series 2021 Bonds are also payable from Non-Property Tax Revenues (as defined herein) to be received by the City and paid to the Bond Trustee in accordance with the provisions of the Loan Agreement. Pursuant to the Loan Agreement, the City has covenanted and agreed to appropriate and pay from Non-Property Tax Revenues money sufficient, together with other money on deposit in the Debt Service Fund, to pay the principal of and interest on the Series 2021 Bonds when due. The City's payments and prepayments payable to the Issuer under the Loan Agreement (excluding the Unassigned Rights) have been assigned by the Issuer to the Bond Trustee as part of the Trust Estate (as defined herein) to secure the Series 2021 Bonds. Pursuant to the Indenture, the Trust Estate is pledged to the payment of the principal of, premium, if any, and interest on the Series 2021 Bonds and may be pledged to additional series of Bonds that may be issued under the Indenture.

THE SERIES 2021 BONDS AND THE INTEREST THEREON DO NOT NOW AND SHALL NEVER CONSTITUTE A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF INCLUDING, WITHOUT LIMITATION, THE CITY AND THE COUNTY, AND THE SERIES 2021 BONDS AND THE INTEREST THEREON DO NOT NOW AND SHALL NEVER CONSTITUTE A DEBT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING, WITHOUT LIMITATION, THE CITY AND THE COUNTY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF INCLUDING, WITHOUT LIMITATION, THE CITY AND THE COUNTY, SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE SERIES 2021 BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER THAT MAY BE UNDERTAKEN BY THE ISSUER. NO BREACH BY THE ISSUER OF ANY SUCH PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT SHALL IMPOSE ANY LIABILITY, PECUNIARY OR OTHERWISE, UPON THE STATE OR ANY POLITICAL SUBDIVISION THEREOF INCLUDING, WITHOUT LIMITATION, THE CITY AND THE COUNTY, OR ANY CHARGE UPON THEIR GENERAL CREDIT OR TAXING POWER.

See "SECURITY AND SOURCES OF PAYMENT" and "CERTAIN INVESTMENT CONSIDERATIONS" herein and "APPENDIX A DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto.

**Trustee, Paying Agent and Registrar**

Regions Bank, Nashville, Tennessee, will serve as trustee, paying agent and registrar for the Series 2021 Bonds (the "Paying Agent and Registrar").

## **Continuing Disclosure**

The Issuer has determined that no financial or operating data concerning the Issuer is material to any decision to purchase, hold, or sell the Series 2021 Bonds, and the Issuer will not provide any such information. The City will undertake all responsibility for providing continuing disclosure with respect to the Series 2021 Bonds, and the Issuer will have no liability to the holders of the Series 2021 Bonds or any other person with respect to the obligations undertaken by the City under the Disclosure Agreement (as defined herein).

In order to assist the Underwriters (as defined herein) in complying with Rule 15c2-12(b)(5) of the Securities and Exchange Commission (the "SEC") promulgated pursuant to the Securities Exchange Act of 1934, as in effect on the date hereof (the "Rule"), simultaneously with the issuance of the Series 2021 Bonds, the City will enter into a Continuing Disclosure Agreement (the "Disclosure Agreement") with Digital Assurance Certification, L.L.C. ("DAC") for the benefit of the Beneficial Owners (as defined herein), under which the City will provide continuing disclosure with respect to the Series 2021 Bonds. The City has designated DAC as the initial disclosure dissemination agent in the Disclosure Agreement. The annual continuing disclosure report and notices of certain enumerated events (as described in the Disclosure Agreement) will be filed by DAC, on behalf of the City, with the repository designated by the SEC, presently the Municipal Securities Rulemaking Board (the "MSRB"), through the Electronic Municipal Market Access system ("EMMA") in an electronic format prescribed by the MSRB. See "CONTINUING DISCLOSURE" herein and "APPENDIX C - FORM OF CONTINUING DISCLOSURE AGREEMENT" attached hereto.

## **Other Information**

This Official Statement speaks only as of its date, and the information contained herein is subject to change.

This Official Statement and the appendices attached hereto contain brief descriptions of, among other matters, the Issuer, the City, the Series 2021 Bonds, the security and sources of payment for the Series 2021 Bonds, the Indenture, the Loan Agreement and the Disclosure Agreement. Such descriptions and information do not purport to be comprehensive or definitive. The summaries of various constitutional provisions, statutes, the Indenture, the Loan Agreement, the Series 2021 Bonds, the Disclosure Agreement and other documents are intended as summaries only and are qualified in their entirety by reference to such documents. References herein to the Series 2021 Bonds are qualified in their entirety to the form thereof included in the Indenture. Copies of the Indenture, the Loan Agreement, the Disclosure Agreement and other relevant documents and information are available, upon written request and payment of a charge for copying, mailing and handling, from Mr. André D. Walker, Deputy Chief Financial Officer of the City, 125 North Main Street, Room 368, Memphis, Tennessee 38103, (901) 636-6324.

## **THE ISSUER**

The Issuer was created by a Joint Resolution of the Memphis City Council (the "City Council") and Shelby County Commission in 2011 and meets the definition of an Industrial Development Board within the meaning of the Act. The Issuer's purpose is to streamline and

expand economic development programs within the City and the County. The Issuer also manages The Industrial Development Board of Memphis and Shelby County, The Port of Memphis, The Depot Redevelopment Corporation of Memphis and Shelby County, Foreign Trade Zone 77, the Regional Economic Development Plan for Memphis and Shelby County, and the Greater Memphis Alliance for a Competitive Workforce.

Pursuant to the Act, directors serve without compensation, except that they shall be reimbursed for their actual expenses in and about the performance of their duties. The eleven member board of directors is comprised of eight members jointly nominated by the City and the County, one jointly appointed member that serves as board chair and one non-voting member from both the City Council and the Shelby County Commission.

The present members of the board of directors of the Issuer and their respective offices are as follows:

<b>Name</b>	<b>Office</b>
Al Bright, Jr.	Chairman
Thomas Dyer	Vice Chairman
Larry Jackson	Treasurer
Dr. Florence Jones	Secretary
Gerre Currie	Board Member
Natasha Donerson	Board Member
Mark J. Halperin	Board Member
Johnny B. Moore	Board Member
Cary Vaughn	Board Member
Mickell M. Lowery	Shelby County Commissioner, Ex-Officio Non-Voting Board Member
Edmund Ford, Sr.	Memphis City Councilman, Ex-Officio Non-Voting Board Member

Except for the information contained under the captions "THE ISSUER" and "LITIGATION - The Issuer," the Issuer has not provided any of the information contained in this Official Statement. The Issuer is not responsible for and does not certify as to the accuracy or sufficiency of the disclosures made herein or any other information provided by the City or any other person. While the Issuer has no reason to believe that such information is incomplete or inaccurate, the Issuer has not independently investigated or confirmed the accuracy or completeness thereof. The Issuer makes no representation or warranty whatsoever concerning the economic feasibility of any Project or the creditworthiness of the City and no such representation or warranty is to be inferred from the issuance of the Series 2021 Bonds or the other transactions described or contemplated herein. The Issuer's role is limited to the issuance of the Series 2021 Bonds.

Neither the members of the board of directors of the Issuer nor any person executing the Series 2021 Bonds are liable personally on the Series 2021 Bonds by reason of the issuance thereof.

The Issuer has no taxing power, nor does it have the power to pledge the general credit or taxing power of the City, the County, the State or any political subdivision thereof.

## **THE CITY**

The City is located on the east bank of the Mississippi River in the southwest corner of the State. The City is the State's largest city not having a metropolitan form of government and is the county seat of the County. The City currently occupies a land area of approximately 315 square miles and has an estimated population of 651,073, according to the 2020 Comprehensive Annual Financial Report of the City (the "2020 Audited Financial Statements").

The City was incorporated as a city in 1826. The City operated under a commission form of government from 1909 until January 1, 1968. At that time, a mayor-council form of government was established. The City Council is composed of thirteen representative citizens who are elected for four-year terms. Six council members are elected at large in multi-member districts, the territorial boundaries of which are determined by dividing the City in half with each multi-member district having three council member numbered positions. Single member districts, numbered 1-7, elect the remaining seven council members. The City Council elects its own chairperson, exercises legislative powers, approves budgets and establishes the tax rate. The Mayor is elected to a four-year term. The Mayor carries out the policies of the City and, with City Council approval, appoints City board members, officers and division directors. The Mayor may veto an action of the City Council, but a simple majority can override any veto.

The current fiscal year of the City is the 12-month period beginning on July 1 and ending on June 30 (a "Fiscal Year").

In addition, certain financial and statistical information relating to the City is set forth in the 2020 Audited Financial Statements, which are available through EMMA.

## **THE PROJECT**

The proceeds of the Series 2021 Bonds will be used by the City to finance certain improvements in connection with its efforts to redevelop the public area known as "Liberty Park" and formerly known as the "Memphis Fairgrounds." The Liberty Park area historically has housed the Liberty Bowl Memorial Stadium, a public arena known as the Mid-South Coliseum, the Pipkin Building which is used for civic events, a track and field complex and Liberty Land amusement park, among other uses. The redevelopment of Liberty Park will include the construction of the Sports & Events Center, the Private Development, upgrades to Liberty Bowl Memorial Stadium and various campus improvements for the benefit of the community. Proceeds of the Series 2021 Bonds will be used to fund a portion of the Project, which consists of the construction of the Sports & Events Center, site preparation for the proposed Private Development and various campus improvements. Information on the Project and the Liberty Park redevelopment is provided below.

### **The Sports & Events Center**

The Sports & Events Center will be a newly constructed facility located on a 22-acre site. The 230,000-square-foot building will contain a hardcourt pavilion with basketball and volleyball courts and an events pavilion containing 75,000 square feet of column-free space and 2,000 fixed bleacher seats. The multi-purpose building will be able to host a wide variety of sporting competitions, including cheer, gymnastics, boxing, wrestling, fencing, pickleball, indoor track and

field and other indoor sports. In addition, the Sports & Events Center will be available for use for trade shows, banquets, graduations and other special events. The Sports & Events Center will contain a mix of floor-level and mezzanine-level seating and broadcast- and social media-ready camera platforms and press boxes, along with a family entertainment center and a lease space suitable for a sports training or physical therapy tenant. The Sports & Events Center is anticipated to fill an existing regional void for general indoor sports facilities.

The Sports & Events Center will be operated by Eastern Sports Management ("ESM"), an experienced operator of youth sports facilities based in Virginia. ESM operates multiple facilities, including the Jeff Rouse Swim and Sport Center (Stafford, VA), the Virginia Beach Field House and the recently opened Virginia Beach Sports Center (Virginia Beach, Virginia). ESM will operate the Sports & Events Center under a 20-year lease-operating agreement, under which ESM will be solely responsible for facility operations and maintenance and the City will be responsible for long-term capital maintenance. ESM will be responsible for securing its own working capital prior to the opening of the Sports & Events Center and for procuring certain furniture and equipment.

### **The Private Development**

An 18-acre site in Liberty Park has been set aside for lease by the City to a private developer for construction by such developer of a mixed-use development consistent with the public purposes of the redevelopment. It is anticipated that this Private Development will contain hospitality components, a family entertainment center, retail outlets, service and food and beverage amenities, as well as a residential component. The City has identified [\_\_\_\_], a private developer, to oversee the development of this site. **[Information on the private developer to be inserted.]** The City will prepare the 18-acre site with mass grading and construction of supportive infrastructure, including new public rights-of-way within the site, utility lines, storm water detention and parking. The City will also construct a public plaza or green space within the site to complement the Private Development.

### **Campus Infrastructure Improvements**

To facilitate the success of the Sports & Events Center and the proposed Private Development, the Project will include improvements to public rights-of-way throughout and at the perimeter of Liberty Park, as well as improved landscaping, lighting and signage. Additional improvements to the Liberty Park campus for the benefit of the community will be pursued. The City intends to add three turf fields adjacent to the Sports & Events Center and construct a new stadium for football and track to be used by local schools as a replacement for the stadium being demolished for the proposed Private Development.

### **Other Improvements**

The City intends to pursue a series of additional small improvements to the Liberty Park campus and the surrounding area to improve the experience of public visitors. For example, exterior improvements will be made to the Pipkin Building, which is used for civic events, the historic Creative Arts building will be made available to a tenant for adaptive reuse and play areas will be installed on the site. Also, a connection will be made with the Shelby Farms Greenline and

improvements for pedestrians will be made to three underpasses along Southern Avenue. Finally, improvements will be made to the Liberty Bowl Memorial Stadium. In addition to being the home of the University of Memphis Tiger football team, the Liberty Bowl Memorial Stadium serves as the site of the annual Southern Heritage Classic football game and the AutoZone Liberty Bowl. Renovation of the locker rooms and replacement of the video board have already been completed and the City is exploring options to improve or replace the press boxes and playing team suites. The City does not anticipate the use of proceeds of the Series 2021 Bonds to fund these other improvements.

### **The Liberty Park TDZ**

Liberty Park is part of the newly created Tourism Development Zone (as defined in the hereinafter defined Tourism Development Financing Act) (the "Liberty Park TDZ"), created pursuant to Tennessee Code Annotated, Title 7, Chapter 88, as amended, known as the Convention Center and Tourism Development Financing Act of 1998 (the "Tourism Development Financing Act"), which permits the incremental new sales taxes generated in the Liberty Park TDZ to form the basis of a revenue stream and a "financing mechanism" utilized to retire bonding debt for public infrastructure investment in the economic development projects located within the Liberty Park TDZ.

The City expects the development of Liberty Park to result in increased economic benefits to the City, including TDZ Revenues (as defined herein), employment opportunities and economic activity.

### **PLAN OF FINANCING**

The proceeds of the Series 2021 Bonds will be loaned to the City and, together with other available funds, will be used to: (a) pay the costs of the Project, including interest on the Series 2021 Bonds; (b) pay certain expenses incurred in connection with the issuance of the Series 2021 Bonds during construction of the Project and for two years after the estimated date of completion of the Project; (c) fund the Series 2021 Bonds Debt Service Reserve Account within the Debt Service Reserve Fund; and (d) pay or provide for the payment of the Series 2021 Bonds or any portion thereof, all as permitted under the Act. See "ESTIMATED SOURCES AND USES OF FUNDS" herein. In addition to the proceeds of the Series 2021 Bonds, the Project will be funded with [approximately \$\_\_\_\_\_ in other funds of the City as well as approximately \$\_\_\_\_\_ in] private sector investments.

For a more detailed discussion of the Project, see "THE PROJECT" herein.

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## ESTIMATED SOURCES AND USES OF FUNDS

The proceeds of the Series 2021 Bonds are expected to be applied as follows:

### Sources:

Par Amount of Series 2021 Bonds	\$
[Net] Original Issue Discount / Bond Premium	
Total Sources:	<u>\$</u>

### Uses:

Deposit to Capitalized Interest Account	\$
Deposit to Construction Fund	
Deposit to Series 2021 Bonds Debt Service Reserve Account	
Costs of Issuance <sup>(1)</sup>	
Total Uses:	<u>\$</u>

<sup>(1)</sup> Includes, without limitation, the Underwriters' discount, legal and advisory fees, printing costs and other costs associated with the issuance of the Series 2021 Bonds.

## THE SERIES 2021 BONDS

### Authority for Issuance

The Series 2021 Bonds are being issued by the Issuer pursuant to, among other things, the Act and the Indenture. See "APPENDIX A DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto.

### General Description of the Series 2021 Bonds

The Series 2021 Bonds will be dated their date of delivery, bear interest and, subject to redemptions as described below, mature on the dates set forth on the inside front cover page of this Official Statement. Interest on the Series 2021 Bonds is payable semiannually on June 1 and December 1 of each year, commencing December 1, 2021, until paid in full (each such date, an "Interest Payment Date"), to the registered owners in whose names the Series 2021 Bonds are registered on the books of registry kept and maintained by the Paying and Registration Agent as of the close of business on the fifteenth (15th) day of the month next preceding the Interest Payment Date. Interest on the Series 2021 Bonds will be calculated on the basis of a 360-day year consisting of twelve 30-day months. Principal on the Series 2021 Bonds is payable on December 1 of each year, commencing December 1, 20[ ]\*. For a discussion of applicable redemption provisions, see "THE SERIES 2021 BONDS – Redemption Provisions" herein.

The Series 2021 Bonds will be issued only in fully registered form, without coupons, in authorized denominations of \$5,000 or any integral multiple thereof and initially will be registered in the name of Cede & Co., as nominee of DTC, which will act as securities depository for the

\* Preliminary, subject to change.

Series 2021 Bonds. Purchases of beneficial ownership interests in the Series 2021 Bonds will be made in book-entry form only and purchasers will not receive physical delivery of certificates representing the beneficial ownership interests in the Series 2021 Bonds unless the book-entry only system is discontinued. Transfers of ownership interests in the Series 2021 Bonds will be accomplished by book entries made by DTC and, in turn, by the DTC Participants who act on behalf of the indirect participants of DTC and the Beneficial Owners (as defined herein) of the Series 2021 Bonds.

Unless the City and the Paying and Registration Agent agree otherwise, so long as DTC or its nominee is the registered owner of the Series 2021 Bonds at such securities depository, payments of principal, premium, if any, and interest on the Series 2021 Bonds will be made by wire transfer to DTC or its nominee, Cede & Co., as registered owner of the Series 2021 Bonds, which will in turn remit such payments to the DTC Participants for subsequent disbursement to the Beneficial Owners of the Series 2021 Bonds. Transfers of such payments to DTC Participants will be the responsibility of DTC. Transfers of such payments to Beneficial Owners of the Series 2021 Bonds by DTC Participants will be the responsibility of such participants and other nominees of such Beneficial Owners. If the book-entry only system is discontinued, the Series 2021 Bonds will be delivered as described in the Bond Resolution, the Beneficial Owners or their nominees will become the registered owners of the Series 2021 Bonds and interest on the Series 2021 Bonds will be payable and ownership of the Series 2021 Bonds may be transferred as described in the Indenture. See "BOOK-ENTRY ONLY SYSTEM" herein.

### **Redemption Provisions**

*Optional Redemption*\*. The Series 2021 Bonds maturing before December 1, 20[\_\_\_], are subject to redemption prior to maturity upon the written request of the City out of amounts deposited in the Optional Redemption Fund, at any time, in whole or in part from time to time in any order of maturity determined by the City, on any date, at a redemption price equal to the [Make-Whole Redemption Price (defined below)].

[The "Make-Whole Redemption Price" of any Series 2021 Bonds to be redeemed is an amount equal to the greater of (i) 100% of the principal amount of such Series 2021 Bonds or (ii) the sum of the present value of the remaining scheduled payments of principal of and interest on such Series 2021 Bonds to the maturity date of such Series 2021 Bonds, not including any portion of those payments of interest accrued and unpaid as of the date on which such Series 2021 Bonds are to be redeemed, discounted on a semiannual basis to the date on which such Series 2021 Bonds are to be redeemed, assuming a 360-day year consisting of twelve (12) 30-day months, at the Treasury Rate (defined below) plus thirty-five (35) basis points (0.35%); plus, in each case, accrued and unpaid interest on such Series 2021 Bonds on such redemption date.

The "Treasury Rate" is, as of the redemption date of any Series 2021 Bonds, the yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) or, if such Statistical Release is no longer published, any source of similar market

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\* Preliminary, subject to change.

data) that has become publicly available at least two (2) Business Days (defined herein), but not more than forty-five (45) calendar days, prior to such redemption date (excluding inflation indexed securities) most nearly equal to the period from such redemption date to the maturity date of such Series 2021 Bonds to be redeemed; provided, however, that if the period from such redemption date to such maturity date is less than one year, the latest weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year that has become publicly available at least two (2) Business Days, but not more than forty-five (45) calendar days, prior to such redemption date shall be used. For all purposes in the Indenture, a "Business Day" is defined as any day of the year on which banks in Memphis, Tennessee, or in the city in which the principal corporate trust office of the Bond Trustee is located, are not required or authorized by law or executive order to remain closed.

The Make-Whole Redemption Price (and, if necessary, such substitute source of market data) shall be determined by an independent accounting firm, investment banking firm or financial advisor retained by the City to calculate such redemption price (the "Calculation Agent"). The determination by the Calculation Agent of the redemption price shall be conclusive and binding on the Issuer, the City, the Bond Trustee and the Holders (as defined herein) of the Series 2021 Bonds.]

The Series 2021 Bonds maturing on or after December 1, 20[\_\_\_], shall be subject to redemption prior to maturity upon the written request of the City on or after December 1, 20\_\_\_, out of amounts deposited in the Optional Redemption Fund, at any time, in whole or in part from time to time in any order of maturity determined by the City on any date, at a redemption price equal to one hundred percent (100%) of the principal amount of Series 2021 Bonds to be redeemed, plus accrued interest thereon to the date of redemption.

Mandatory Sinking Fund Redemption. The Series 2021 Bonds maturing on \_\_\_\_\_ 1, \_\_\_\_ and \_\_\_\_\_ 1, \_\_\_\_ are subject to mandatory Sinking Fund Redemption, prior to maturity, in part, on \_\_\_\_\_ 1 of the respective years and in the respective principal amounts set forth below, at a redemption price equal to the principal amount of Series 2021 Bonds, plus accrued interest to the date of redemption.

Series 2021 Bonds Maturing \_\_\_\_\_ 1, 20\_\_\_\_

Redemption Dates  
( \_\_\_\_\_ 1)

Principal Amount

\*Final Maturity.

Payment or redemption of Series 2021 Bonds through the mandatory Sinking Fund Redemption shall be without premium. In the event the Series 2021 Bonds maturing on a specific date as aforesaid have been fully paid and sufficient money is on deposit in the Debt Service Fund

to redeem Series 2021 Bonds maturing on that specific maturity date, then such money on deposit in the Debt Service Fund shall be applied to retirement of Series 2021 Bonds maturing on the next succeeding maturity date in the order above set forth. The Series 2021 Bonds shall be redeemed by the Bond Trustee pursuant to the provisions of this paragraph without any notice from or direction by the Issuer or the City.

The principal amount of any Series 2021 Bonds of a maturity entitled to mandatory Sinking Fund Redemption purchased with money in the Debt Service Fund in accordance with the Indenture, as applicable, will be credited against and in satisfaction of the mandatory Sinking Fund Redemption of the Series 2021 Bonds of such maturity payable on the \_\_\_\_\_ 1 next succeeding the date such Series 2021 Bonds were so purchased. In addition, the principal amount of Series 2021 Bonds of a maturity entitled to mandatory Sinking Fund Redemption that are (A) redeemed at the option of the Issuer, (B) purchased by the City or the Issuer and delivered to the Bond Trustee for cancellation (as described below) or (C) defeased in accordance with the Indenture shall be applied in satisfaction, in whole or in part, of one or more Sinking Fund Redemptions as the City, in its discretion, may direct in a written request to the Bond Trustee.

*Selection of Bonds to Be Redeemed.* If less than all of the Outstanding Series 2021 Bonds of a maturity are to be redeemed, the Series 2021 Bonds of such maturity to be redeemed shall be selected as provided below.

Subject to the following paragraph, any redemption of less than all of a maturity of Series 2021 Bonds shall be allocated among the Holders (as defined herein) of such Series 2021 Bonds as nearly as practicable pro rata in proportion to the principal amounts of Series 2021 Bonds owned by each Holder, subject to the authorized denominations applicable to the Series 2021 Bonds. The calculation of such proportion shall be based on the following formula:

$$\frac{(\text{principal to be redeemed}) \times (\text{principal owned by a Holder})}{(\text{principal amount Outstanding})}$$

If the Series 2021 Bonds to be redeemed are registered in book-entry form and so long as DTC is the sole registered Holder of the Series 2021 Bonds of the maturity to be redeemed, it is the Issuer's intent that the Series 2021 Bonds of such maturity or portions thereof to be redeemed shall be selected on a pro rata pass-through distribution of principal basis in accordance with DTC procedures then in effect with respect to redemptions of less than all of the Outstanding bonds of a series and maturity. However, neither the Issuer nor the City can provide any assurance that DTC, DTC's direct and indirect participants or any other intermediary will allocate the redemption of Series 2021 Bonds on such basis. If the DTC operational arrangements do not allow for the redemption of the Series 2021 Bonds on a pro rata pass-through distribution of principal basis, then the Series 2021 Bonds of a maturity to be redeemed shall be selected in accordance with DTC procedures, currently by lot. If, at the time of redemption of the Series 2021 Bonds on a pro rata pass-through distribution of principal basis, the Bond Trustee has failed to notify DTC that the Series 2021 Bonds to be redeemed are to be redeemed pursuant to DTC's pro rata pass-through distribution of principal procedures, or has failed to furnish to DTC the factor to be applied by it in determining the pro rata allocation of the principal to be redeemed, then the Series 2021 Bonds of a maturity to be redeemed may be selected in accordance with DTC procedures, currently by lot.

Notice of Redemption. Any notice of optional redemption shall state the following: (a) the name of the Series 2021 Bonds; (b) the CUSIP number of the Series 2021 Bonds to be redeemed; (c) the original date of the Series 2021 Bonds; (d) the interest rate and maturity date of the Series 2021 Bonds to be redeemed; (e) the date of the redemption notice; (f) the Redemption Date; (g) the redemption price; and (h) the address and telephone number of the principal office of the Bond Trustee. Such notice shall further state that on the Redemption Date for such Series 2021 Bonds there shall become due and payable upon each Series 2021 Bond to be redeemed the redemption price thereof, or the redemption price of the specified portion of the principal amount thereof in the case of a Series 2021 Bond to be redeemed in part only, with interest accrued and unpaid to such date and that, from and after such date, interest thereon shall cease to accrue and be payable. The redemption notice shall be given by mailing a copy of such notice of redemption by first class mail, postage prepaid, not less than thirty (30) or more than sixty (60) days prior to the Redemption Date, to the registered owners of the Series 2021 Bonds to be redeemed to the address shown on the registration books kept by the Bond Trustee to evidence the registration and transfer of Series 2021 Bonds (the "Bond Register") not less than thirty or more than sixty days prior to the Redemption Date.

A notice of optional redemption may state that it is conditioned upon the receipt by the Bond Trustee of sufficient moneys to pay the redemption price, plus interest accrued and unpaid to the redemption date, or upon satisfaction of any other condition, or that it may be rescinded upon the occurrence of any other event, and any conditional notice so given may be rescinded at any time before payment of such redemption price and accrued interest if any such condition so specified is not satisfied or if any other such event occurs. Notice of such rescission shall be given by the Bond Trustee to affected registered owners of Series 2021 Bonds as promptly as practicable upon the failure of such condition or the occurrence of such other event and shall be given in the same manner as the notice of redemption was given.

Failure to give any notice of redemption by mailing or a defect in such notice or the mailing as to any Series 2021 Bond shall not affect the validity of any proceedings for redemption as to any other Series 2021 Bond with respect to which notice was properly given. Failure of any registered owner to receive any mailed notice of redemption shall not affect the sufficiency or validity of the proceedings for the redemption of the related Series 2021 Bonds.

If a notice of redemption is given in accordance with the provisions of the Indenture, subject to rescission of any conditional notice, the Series 2021 Bonds, or portions thereof, thus called shall not bear interest after the applicable redemption date, shall no longer be protected by the Indenture and shall not be deemed to be Outstanding under the provisions of the Indenture.

Purchase in Lieu of Optional Redemption and Cancellation. In lieu of redeeming Series 2021 Bonds pursuant to the Indenture, the City may use such money otherwise available under the Indenture for redemption of Series 2021 Bonds to purchase Series 2021 Bonds in the open market at a price not exceeding the redemption price then applicable hereunder, plus accrued interest to the date of purchase, and direct the Bond Trustee to apply such money to the payment of the purchase price of the Series 2021 Bonds so purchased. The Series 2021 Bonds so purchased shall be delivered to the Bond Trustee for cancellation and the Issuer shall receive credit for any such Series 2021 Bonds so purchased in the same manner as if such Series 2021 Bonds had been redeemed.

## **Registration Provisions**

The Issuer shall cause the Bond Register to be kept by the Bond Trustee at its designated corporate trust office.

The principal of, premium, if any, and interest on the Series 2021 Bonds shall be payable in any currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of public and private debts. Such principal and premium, if any, shall be payable upon presentment at the designated corporate trust office of the Bond Trustee, or its successor as Bond Trustee, or at the office of any alternate paying agent, if any, named in any such Bond. Payment of the interest on any Series 2021 Bond due on any Interest Payment Date shall be made to the person appearing on the Bond Register as the registered owner thereof (a "Holder") as of the close of business of the Bond Trustee on the Record Date for such interest payment and shall be paid: (i) by check or draft of the Bond Trustee mailed on the Interest Payment Date to such registered owner at such owner's address as it appears on the Bond Register or at such other address as is furnished to the Bond Trustee in writing by such owner; or (ii) in the case of an interest payment on Series 2021 Bonds, to any registered owner of \$1,000,000 or more in aggregate principal amount of Series 2021 Bonds of such series as of the close of business of the Bond Trustee on the Record Date for a particular Interest Payment Date, by wire transfer to such registered owner upon written request from such registered owner, which request shall contain the wire transfer address (which shall be in the continental United States) to which such registered owner wishes to have such wire directed, provided such written request is received not less than fifteen days prior to such Record Date (it being understood that such request may refer to multiple interest payments).

## **Transfer and Exchange**

Upon surrender for transfer of any Series 2021 Bond at the designated corporate trust office of the Bond Trustee, the Issuer shall execute and the Bond Trustee shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds (as defined herein) of the same series and maturity and of authorized denomination for the aggregate principal amount which the registered owner is entitled to receive. Any Series 2021 Bond may be exchanged at the office of the Bond Trustee for a like aggregate principal amount of Series 2021 Bond of the same series and maturity in authorized denominations. The execution by the Issuer of any Series 2021 Bond shall constitute full and due authorization of such Bond and the Bond Trustee shall thereby be authorized to authenticate, date and deliver such Bond.

All Series 2021 Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature satisfactory to the Bond Trustee, duly executed by the registered owner or by such owner's duly authorized attorney.

No service charge shall be imposed for any exchange or transfer of Series 2021 Bonds. The Issuer and the Bond Trustee may, however, require payment by the person requesting an exchange or transfer of Series 2021 Bonds of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto, except in the case of the issuance of a Series 2021 Bond for the unredeemed portion of a Series 2021 Bond surrendered for redemption.

The Issuer and the Bond Trustee shall not be required to register the transfer of or exchange any Series 2021 Bond after notice calling such Series 2021 Bond or portion thereof for redemption has been given or during the fifteen-day period next preceding the first mailing of such notice of redemption.

New Series 2021 Bonds delivered upon any transfer or exchange shall be valid obligations of the Issuer, evidencing the same debt as the Series 2021 Bonds surrendered, shall be secured by the Indenture and shall be entitled to all of the security and benefits hereof to the same extent as the Series 2021 Bond surrendered.

The Issuer and the Bond Trustee may treat the registered owner of any Series 2021 Bond as the absolute owner thereof for all purposes, whether or not such Series 2021 Bond shall be overdue, and shall not be bound by any notice to the contrary. All payments of or on account of the principal of and premium, if any, and interest on any such Series 2021 Bond as herein provided shall be made only to or upon the written order of the registered owner thereof or his legal representative, but such registration may be changed as provided in the Indenture. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 2021 Bond to the extent of the sum or sums so paid.

Any Series 2021 Bond surrendered for the purpose of payment, retirement, exchange, transfer or replacement shall be cancelled upon surrender thereof to the Bond Trustee or any paying agent. If the Issuer or the City shall acquire any of the Series 2021 Bonds, the Issuer or the City shall deliver such Series 2021 Bonds to the Bond Trustee for cancellation and the Bond Trustee shall cancel the same. Any Series 2021 Bonds cancelled by any paying agent other than the Bond Trustee shall be promptly transmitted by such paying agent to the Bond Trustee. Certification of Series 2021 Bonds cancelled by the Bond Trustee and Series 2021 Bonds cancelled by a paying agent other than the Bond Trustee which are transmitted to the Bond Trustee shall be made to the Issuer and to the City. Cancelled Series 2021 Bonds may be destroyed by the Bond Trustee unless instructions to the contrary are received from the Issuer or the City.

### **BOOK-ENTRY ONLY SYSTEM**

The information in this section concerning DTC and DTC's book-entry system has been obtained from DTC and the Issuer does not make any representation or warranty or take any responsibility for the accuracy or completeness of such information.

DTC will act as securities depository for the Series 2021 Bonds. The Series 2021 Bonds will be issued as fully-registered securities registered in the name of Cede & Co., DTC's partnership nominee, or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2021 Bond certificate will be issued for each maturity of each series of the Series 2021 Bonds as set forth on the inside front cover page of this Official Statement, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code and a "clearing agency" registered pursuant to the provisions of Section 17A of

the Securities Exchange Act of 1934. DTC holds and provides asset servicing for U.S. and non-U.S. equity issues; corporate and municipal debt issues and money market instruments that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between accounts of Direct Participants. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants" and, together with the Direct Participants, the "DTC Participants"). The DTC Rules applicable to its Participants are on file with the SEC. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of Series 2021 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2021 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2021 Bond (a "Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2021 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2021 Bonds, except in the event that use of the book-entry system for the Series 2021 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2021 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2021 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2021 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2021 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2021 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2021 Bonds, such as redemptions, tenders, defaults, and proposed



amendments to the security documents. For example, Beneficial Owners of Series 2021 Bonds may wish to ascertain that the nominee holding the Series 2021 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Series 2021 Bonds within a series and maturity of the Series 2021 Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such series or maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2021 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Series 2021 Bonds are credited on the record date, as identified in a listing attached to the Omnibus Proxy.

Principal, premium, if any, and interest payments on the Series 2021 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Issuer or the Paying Agent and Registrar on the payment date in accordance with their respective holdings shown on DTC's records. Payments by Direct Participants or Indirect Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Direct Participant or Indirect Participant and not of DTC, the Paying Agent and Registrar or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, premium, if any, and interest on the Series 2021 Bonds, as applicable, to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer and/or the Paying Agent and Registrar, disbursement of such payments to Direct Participants will be the responsibility of DTC and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct Participants and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Series 2021 Bonds at any time by giving reasonable notice to the Issuer or the Paying Agent and Registrar. Under such circumstances, in the event that a successor depository is not obtained, Series 2021 Bonds certificates are required to be printed and delivered.

The Issuer may decide to discontinue use of the system of book-entry only transfers through DTC (or a successor securities depository). In that event, Series 2021 Bonds certificates will be printed and delivered to the Holders of the Series 2021 Bonds.

THE ABOVE INFORMATION CONCERNING DTC AND DTC'S BOOK-ENTRY SYSTEM HAS BEEN OBTAINED FROM SOURCES THAT THE ISSUER AND THE UNDERWRITERS BELIEVE TO BE RELIABLE, BUT THE ISSUER AND THE UNDERWRITERS TAKE NO RESPONSIBILITY FOR THE ACCURACY THEREOF.

NEITHER THE ISSUER NOR THE PAYING AGENT AND REGISTRAR WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DIRECT PARTICIPANTS, INDIRECT PARTICIPANTS, BENEFICIAL OWNERS OR OTHER NOMINEES OF SUCH BENEFICIAL OWNERS FOR (A) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT; (B) DISTRIBUTION OF CERTIFICATES REPRESENTING AN OWNERSHIP INTEREST OR OTHER CONFIRMATION OF BENEFICIAL OWNERSHIP INTERESTS IN THE SERIES 2021 BONDS; (C) THE PAYMENT BY DTC OR BY ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AMOUNT OR REDEMPTION OR PURCHASE PRICE OF, OR INTEREST ON, ANY SERIES 2021 BONDS; (D) THE DELIVERY OF ANY NOTICE BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT; (E) THE ELECTION OF THE DIRECT PARTICIPANTS, THE INDIRECT PARTICIPANTS OR THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE SERIES 2021 BONDS; OR (F) ANY CONSENT GIVEN OR ANY OTHER ACTION TAKEN BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT.

So long as Cede & Co. is the registered owner of the Series 2021 Bonds, as nominee for DTC, references herein to the registered owners of the Series 2021 Bonds shall mean Cede & Co., as aforesaid, and shall not mean the Beneficial Owners of the Series 2021 Bonds.

#### **ANNUAL DEBT SERVICE REQUIREMENTS**

The following table presents the principal and interest payment requirements with respect to the Series 2021 Bonds, which constitute the only series of Bonds issued under the Indenture.

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**LONG-TERM DEBT SCHEDULE**  
(In Thousands of Dollars)

<b>Fiscal Year Ending June 30</b>	<b>Series 2021 Bonds<sup>(1)</sup></b>		
	<b>Principal</b>	<b>Interest</b>	<b>Total Debt Service</b>
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
2037			
2038			
2039			
2040			
2041			
2042			
2043			
2044			
2045			
2046			
2047			
2048			
2049			
2050			
2051			
2052			
2053			
<b>Total</b>			

<sup>(1)</sup> Amounts may not add due to rounding.

Source: City of Memphis, Tennessee.

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## SECURITY AND SOURCES OF PAYMENT

### General

The Series 2021 Bonds are limited obligations of the Issuer secured by an assignment and pledge of the Trust Estate, consisting primarily of the payments and prepayments required to be made by the City under and pursuant to the Loan Agreement from TDZ Revenues. The Series 2021 Bonds will be secured by a temporary Debt Service Reserve Account that has no requirement of replenishment and will have no reserve funding requirement after [\_\_\_\_], 202[7]. To the extent of any deficiency in the TDZ Revenues and after the application of any funds in the Series 2021 Bonds Debt Service Reserve Account and Surplus Fund (to the extent that funds are available therein), the Series 2021 Bonds are also payable from Non-Property Tax Revenues to be received by the City and paid to the Bond Trustee in accordance with the provisions of the Loan Agreement. Pursuant to the Loan Agreement, the City has covenanted and agreed to appropriate and pay from Non-Property Tax Revenues money sufficient, together with other money on deposit in the Debt Service Fund, to pay the principal of and interest on the Series 2021 Bonds when due. Pursuant to the Indenture, all of the payments and prepayments by the City under the Loan Agreement (excluding the Unassigned Rights) have been pledged to the payment of principal of and premium, if any, and interest on the Series 2021 Bonds.

See "CERTAIN INVESTMENT CONSIDERATIONS" herein and "APPENDIX A DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto.

### Trust Estate

Pursuant to the Indenture, the Issuer will convey, grant, assign, transfer, pledge, set over and confirm and grant to the Bond Trustee all of its right, title and interest in and to the Trust Estate to secure the Series 2021 Bonds. The "Trust Estate," as described in the Indenture, consists of the following (including, without limitation, the right to enforce any of the terms thereof):

- (a) All right, title and interest of the Issuer in and to the Loan Agreement and all amounts payable to the Issuer under the Loan Agreement and all security therefor (excluding Unassigned Rights);
- (b) All right, title and interest of the Issuer in and to the funds, accounts and subaccounts established pursuant to the Indenture and the assets thereof and income and earnings thereon for the benefit of the Holders of the Outstanding Bonds;
- (c) Any and all other property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, conveyed, pledged, assigned or transferred as and for additional security under the Indenture by the Issuer or the City or by anyone on their behalf to the Bond Trustee, including without limitation funds of the City held by the Bond Trustee as security for any of the Bonds.

### **Priority of Right, Lien and Privilege under the Indenture**

The Series 2021 Bonds and any other Bonds rank and have a right of payment from the Trust Estate equal to each other.

### **TDZ Revenues**

Pursuant to the Tourism Development Financing Act, "TDZ Revenues" are comprised of certain state and local sales tax collections made in a Tourism Development Zone (as defined in the Tourism Development Financing Act), in this case known as the Liberty Park TDZ. The Liberty Park TDZ consists of 2.97-mile area in the City shown in the map in the inside cover hereof and includes [\_\_\_\_\_].

The Liberty Park TDZ was approved by the State on November 19, 2018. The TDZ Revenues are made available by the State to the City to pay costs of, and to support indebtedness issued to finance, any "Qualified Public Use Facility" (as defined in the Tourism Development Financing Act) located within the Liberty Park TDZ. **[See "APPENDIX A DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto for a description of certain possible exclusions from the definition of TDZ Revenues relating to local sales and use taxes generated by certain facilities which may be constructed within the Liberty Park TDZ in the future.]**

The purpose of the Tourism Development Financing Act is to increase state tourism and related economic development by providing a financing mechanism for the development of convention centers and other similar public use facilities that will attract and serve major tourism destinations.

The amount of TDZ Revenues allocated to the City as a result of state and local sales tax collections in the Liberty Park TDZ is calculated in the following manner. For each fiscal year of the State, the State will allocate to the City an amount equal to the incremental increase in (a) state and local sales tax collections in the Liberty Park TDZ in the State's then current fiscal year over (b) state and local sales tax collections in the Liberty Park TDZ (the "Base Year TDZ Collections") in the State's fiscal year in which a Qualified Public Use Facility in the Liberty Park TDZ commenced its operations (the "Base Year"); provided, however, that each year Base Year TDZ Collections will be adjusted in proportion to the percentage increase or decrease in state and local sales tax collections from the Base Year within the County as a whole. Increases in the State sales tax rate are not taken into account for these purposes. The State's fiscal year currently ends on June 30 and the Tourism Development Financing Act requires the State to allocate and pay TDZ Revenues to the City within 90 days of the end of each fiscal year of the State.

Pursuant to the Tourism Development Financing Act, the City's right to receive continuing distributions of TDZ Revenues with respect to state and local sales tax collections in the Liberty Park TDZ shall continue until the earlier of: (a) the date on which the cumulative amount of TDZ Revenues apportioned and distributed to the City equals the cost of the Sports & Events Center or any additional Qualified Public Use Facility approved by the State in the future and any Qualified Associated Development, plus interest on any indebtedness of the City related to such cost; (b) the

date on which there ceases to be a Qualified Public Use Facility in the Liberty Park TDZ; or (c) 30 Fiscal Years from the reasonably anticipated date of commencement of operations of the Qualified Public Use Facility as such.

Pursuant to the Tourism Development Financing Act, the City qualified the Sports & Events Center as a Qualified Public Use Facility on November 19, 2018. The Sports & Events Center is expected to commence operations as a Qualified Public Use Facility during Fiscal Year 2023, resulting in Fiscal Year 2022 being the Base Year for the Liberty Park TDZ. Accordingly, the City expects to receive its first distribution of TDZ Revenues in Fiscal Year 2024, and to be eligible to receive TDZ Revenues each year through the Fiscal Year 2053.

#### **Pro Forma Debt Service Coverage of the Series 2021 Bonds from TDZ Revenues**

The following table presents the projected debt service coverage of the Series 2021 Bonds from TDZ Revenues. Such projections are based upon the Sales Tax Impact Analysis for the Memphis Sports & Events Center and TDZ (the "Sales Tax Impact Analysis") prepared by RKG Associates, Inc. ("RKG") and, in particular, the COVID-19 Assumptive Model presented in the Sales Tax Impact Analysis. Such COVID-19 Assumptive Model assumes less TDZ Revenues until Fiscal Year 2026 as compared to the **[October 2020 Model]** presented in the Sales Tax Impact Analysis and assumes a one percent (1%) inflation factor in the TDZ Revenues thereafter. The assumptions and inputs underlying the COVID-19 Assumptive Model and the **[October 2020 Model]** are more particularly described in "APPENDIX B – SALES TAX IMPACT ANALYSIS FOR THE MEMPHIS SPORTS & EVENTS CENTER AND TDZ" attached hereto.

Since all projections are based on estimates, inputs and assumptions which are inherently subject to uncertainty and variations depending on future events, there are likely to be differences between the projections and actual results and the differences may be material. See "CERTAIN INVESTMENT CONSIDERATIONS" herein and "APPENDIX B – SALES TAX IMPACT ANALYSIS FOR THE MEMPHIS SPORTS & EVENTS CENTER AND TDZ" attached hereto.

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**Pro-Forma Coverage for the Series 2021 Bonds  
from TDZ Revenues**

<b>Fiscal Year</b>	<b>TDZ Revenues</b>	<b>Series 2021 Bonds Debt Service</b>	<b>Series 2021 Bonds Debt Service Coverage Ratio</b>
2022	\$ -	-	
2023	-	\$	
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
2037			
2038			
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2040			
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2042			
2043			
2044			
2045			
2046			
2047			
2048			
2049			
2050			
2051			
2052			
2053			

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Source: Sales Tax Impact Analysis for the Memphis Sports & Events Center and TDZ prepared by RKG Associates, Inc. See COVID-19 Assumptive Model therein.

## Non-Property Tax Revenues

In accordance with the provisions of the Loan Agreement, the City has covenanted and agreed to timely budget and appropriate from its Non-Property Tax Revenues monies to pay to the Bond Trustee an amount which, together with money on deposit in the Debt Service Fund, is sufficient to pay the principal of and interest on Series 2021 Bonds when due. Payments of Non-Property Tax Revenues by the City pursuant to the Loan Agreement are subject to annual appropriation by the City. No assurance can be given that the City Council will appropriate such funds. See "CERTAIN INVESTMENT CONSIDERATIONS" herein.

"Non-Property Tax Revenues" means all legally available revenues of the City, other than TDZ Revenues, which may be applied to the payments required under the Loan Agreement to be paid by the City, and which shall not include *ad valorem* property tax revenues. The Non-Property Tax Revenues include, but are not limited to, the following categories of revenue within the City's General Fund: Local Taxes; State Taxes; Licenses and Permits; Fines and Forfeitures; Charges for Services; Use of Money and Property; Federal and State Grants; Intergovernmental Revenue; and Other Revenue.

Local Taxes. This category consists of all locally collected taxes and fees with the exception of current *ad valorem* taxes, prior *ad valorem* taxes, revenue generated from the sale of prior *ad valorem* taxes and special assessment taxes. Local taxes include, among other things, payments in lieu of taxes or tax equivalent payments ("PILOT Payments"), local sales tax, and beer sales tax.

State Taxes. This category consists of the City's share of the State income tax, sales tax, telecommunications sales tax, state-shared beer tax, alcoholic beverage tax and special petroleum product tax.

Licenses and Permits. This category consists of revenues from businesses and occupations that must be licensed before doing business within the jurisdiction of the City or that benefit from an activity licensed by the City. Major license sources are motor vehicle licenses and liquor licenses. Major permits are those related to construction and security alarms.

Fines and Forfeitures. This category consists of money derived from the imposition of penalties for the commission of statutory offenses or violation of rules or regulations, or money derived from the confiscation of deposits held as performance guarantees.

Charges for Services. This category consists of fees charged by various departments and agencies of the City to the user of the service. These fees cover a wide range of services.

Use of Money and Property. This category consists of revenues from the use of money and property and includes interest earned on investments and payments received from the lease or rental of government property.

Federal and State Grants. This category consists of money received from the State of Tennessee or the U.S. Government to fund various public safety programs and other initiatives the purpose of which is to enhance the lives of citizens.



Intergovernmental Revenue. This category consists of revenues from: (i) the Memphis-Shelby County Airport Authority (MSCAA) for the provision of fire and emergency services, and; (ii) the Memphis Area Transit Authority (MATA) for the reimbursement of funds provided by the City to subsidize MATA's daily operations

Other Revenue. This category consists of revenues derived from sources not included in any of the above categories. It includes auctions and a variety of miscellaneous revenues.

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### Historical Collection of Non-Property Tax Revenues

The following table presents the historical amounts of Non-Property Tax Revenues collected during the periods listed below, excluding certain categories of Non-Property Tax Revenues. Accordingly, the amount of Non-Property Tax Revenues presented in the following table is less than the actual amount of Non-Property Tax Revenues collected during each Fiscal Year shown therein].

**Historical Collection of Non-Property Tax Revenues<sup>(1)</sup>  
for the City of Memphis, Tennessee  
Fiscal Years Ended June 30**

	2016	2017	2018	2019	2020	Six Months Ended December 31, 2019	Six Months Ended December 31, 2020 <sup>(2)</sup>
Local Taxes <sup>(3)</sup>	\$ 175,634,945	\$ 174,848,191	\$ 178,483,334	\$ 183,542,789	\$ 188,781,123	\$ 83,986,736	\$ 92,589,287
State Taxes (local share) <sup>(4)</sup>	69,327,565	65,028,258	67,289,715	63,329,251	67,369,483	38,742,403	32,634,023
Licenses and Permits <sup>(4)</sup>	13,171,978	13,393,208	13,387,637	13,674,185	12,278,029	6,564,746	7,155,275
Fines and Forfeitures <sup>(4)</sup>	11,993,027	10,640,143	10,570,487	11,068,169	11,750,599	4,767,905	3,299,632
Charges for Services <sup>(4)</sup>	34,757,606	33,941,462	34,193,231	36,063,588	34,004,243	1,307,005	1,055,235
Use of Money or Property	890,741	792,824	2,068,677	4,594,900	3,716,788	1,728,315	260,460,709
Federal and State Grants	-	1,457,582	1,870,410	11,503,937	23,539,195	6,700,000	6,700,000
Intergovernmental Revenue	5,995,725	9,409,377	8,660,514	9,965,561	10,760,231	2,187,399	2,514,874
Other Revenue	10,712,437	11,397,397	16,761,197	17,831,810	17,236,012		
<b>Total Non-Tax Revenues</b>	<b>\$322,484,022</b>	<b>\$320,908,443</b>	<b>\$333,285,202</b>	<b>\$351,574,190</b>	<b>\$369,435,701</b>	<b>\$145,984,508</b>	<b>\$192,435,083</b>

<sup>(1)</sup> Totals may not add due to rounding.

<sup>(2)</sup> Amounts are unaudited.

<sup>(3)</sup> For purposes of this table, the "Local Taxes" excludes ad valorem property taxes and may also exclude certain non-ad valorem revenues which may be restricted or otherwise unavailable.

<sup>(4)</sup> For purposes of this table, the "State Taxes," "Licenses and Permits," "Fines and Forfeitures" and "Charges for Services" categories only include revenues which are not restricted or otherwise available and which, therefore, are included within the definition of Non-Property Tax Revenues.

Source: City of Memphis, Tennessee.

### ***Contingent Obligations***

As of the date of this Official Statement, the City has the following outstanding contingent obligations payable from Non-Property Tax Revenues (collectively, the "Contingent Obligations").

*Sports Authority Senior Lien Bonds.* The Memphis and Shelby County Sports Authority, Inc. (the "Sports Authority") issued certain senior lien bonds (the "Sports Authority Senior Lien Bonds"), the proceeds of which were used to finance and refinance the acquisition, construction and equipping of a multi-purpose arena that is the home of the National Basketball Association's franchise known as the Memphis Grizzlies (the "FedExForum"). Pursuant to an interlocal agreement by and among the City and the County and the Sports Authority (the "Interlocal Agreement"), in the event the revenues pledged to the support of the Sports Authority Senior Lien Bonds prove to be insufficient to pay debt service on the Sports Authority Senior Lien Bonds in any bond year (ending on October 31), the County and the City have covenanted to timely appropriate from legally available non-ad valorem tax revenues, not later than October 31 of the Fiscal Year ending June 30 following the date of such deficit, sufficient money to replenish draws from the debt service reserve fund relating to the Sports Authority Senior Lien Bonds (the "Senior Lien Bonds Reserve Fund") used to make scheduled debt service on the Sports Authority Senior Lien Bonds in the prior bond year.

Principal and interest on the Sports Authority Senior Lien Bonds are payable from (a) seat rental fees derived from the FedExForum, (b) certain sales tax rebate revenues to the City and to the County, (c) City hotel/motel tax revenues derived from certain hotel/motel taxes imposed by the City, (d) County hotel/motel tax revenues derived from certain hotel/motel taxes imposed by the County, (e) certain payments in lieu of taxes from MLGW, and (f) certain car rental taxes collected in the County.

The obligation of the County and the City to replenish draws on the Senior Lien Bonds Reserve Fund is apportioned on an equal basis (i.e., 50% by the City and 50% by the County) but is not a joint obligation. The Interlocal Agreement provides that the maximum amount of the County's or City's respective replenishment obligation relating to the Sports Authority Senior Lien Bonds is the debt service payments on not to exceed one-half of a maximum of \$230,000,000 in principal amount of Sports Authority Senior Lien Bonds. The Sports Authority initially issued \$202,290,000 in aggregate principal amount of Sports Authority Senior Lien Bonds (leaving \$27,710,000 of authorized but unissued Sports Authority Senior Lien Bonds for which the City and County would have a replenishment obligation under the Interlocal Agreement). As of June 2, 2021, the Sports Authority Senior Lien Bonds were outstanding in an aggregate principal amount of \$118,235,000 and the maximum annual contingent obligation of the City to replenish draws from the Senior Lien Bonds Reserve Fund was \$7,262,500. The obligation to replenish the Senior Lien Bonds Reserve Fund is not a general obligation of the City but rather is required to be paid solely from Non-Property Tax Revenues appropriated by the City for such payments. The final maturity of the Sports Authority Senior Lien Bonds is November 1, 2028.

As of the date of this Official Statement, the City has not been called upon to make a payment under the Interlocal Agreement. HOWEVER, THE CITY CAN OFFER NO ASSURANCE AS TO WHETHER THERE WILL BE FUTURE CALLS ON THE CITY TO

MAKE A PAYMENT UNDER THE INTERLOCAL AGREEMENT. No feasibility report with respect to the FedExForum was prepared.

Series 2017 EDGE Bonds. Pursuant to a Trust Indenture dated as of June 1, 2017 (the "EDGE Indenture"), the Issuer (also known as "EDGE") issued its \$36,215,000 TDZ Revenue Refunding Bonds, Series 2017A (Federally Taxable) (the "Series 2017A EDGE Bonds"), its \$87,725,000 TDZ Revenue Refunding Bonds, Series 2017B (the "Series 2017B EDGE Bonds"), and its \$34,300,000 TDZ Revenue Refunding Bonds, Series 2017C (Federally Taxable) (the "Series 2017C EDGE Bonds" and, together with the Series 2017A EDGE Bonds and the Series 2017B EDGE Bonds, the "Series 2017 EDGE Bonds"). The Series 2017B EDGE Bonds and the Series 2017C EDGE Bonds are hereinafter referred to, collectively, as the "Series 2017 EDGE Non-Property Tax Revenue Supported Bonds." The proceeds of the Series 2017 EDGE Bonds were used by EDGE to fund a loan to the City under a loan agreement, dated June 1, 2017 (the "EDGE Loan Agreement"), the proceeds of which loan, together with certain other funds of the City, were used to: (a) refund and defease certain prior obligations of the City incurred in connection with the financing of a portion of the costs associated with the redevelopment of the Pyramid Arena, the acquisition and renovation of certain properties in the center city area of the City adjacent to the Pyramid Arena and the acquisition of the interest of the County in the Renasant Convention Center; and (b) pay certain costs of issuance related to the Series 2017 EDGE Bonds. The Series 2017 EDGE Bonds are payable primarily from distributions of state and local sales and use taxes in a tourist development zone which includes the Pyramid Arena, the Pinch District of the City and the Renasant Convention Center (the "TDZ Revenues"). The Series 2017A EDGE Bonds, and any other senior bonds subsequently issued under the EDGE Indenture, are payable solely from TDZ Revenues and have a right of payment from the TDZ Revenues superior to that of the Subordinated EDGE Bonds (hereinafter defined).

Pursuant to the EDGE Loan Agreement, in the event the TDZ Revenues prove to be insufficient to pay debt service on the Series 2017 EDGE Non-Property Tax Revenue Supported Bonds and any other subordinate bonds subsequently issued under the EDGE Indenture (the "Subordinated EDGE Bonds"), the City has covenanted and agreed to appropriate from legally available non-ad valorem tax revenues, on or prior to the time required in the EDGE Loan Agreement, sufficient money to pay the principal of, premium, if any, and interest payable on the Subordinated EDGE Bonds. As of June 2, 2021, the Subordinated EDGE Bonds were outstanding in an aggregate principal amount of \$122,025,000. The City's obligation to pay the principal of, premium, if any, and interest on the Subordinated EDGE Bonds in the event the TDZ Revenues are insufficient is not a general obligation of the City but, rather, is required to be paid solely from Non-Property Tax Revenues appropriated by the City for such payments. The final maturity of the Series 2017 Non-Property Tax Revenue Supported Bonds is November 1, 2030.

As of the date of this Official Statement, the City has not been called upon to make any payment of Non-Property Tax Revenues under the EDGE Loan Agreement. HOWEVER, THE CITY CAN OFFER NO ASSURANCE AS TO WHETHER THERE WILL BE ANY FUTURE CALL ON THE CITY TO MAKE A PAYMENT FROM ITS NON-PROPERTY TAX REVENUES UNDER THE EDGE LOAN AGREEMENT.

Additional Contingent Obligations. The City expects to fund, from time to time, special projects related to economic development which largely will be payable from specific dedicated

revenues. To the extent the City elects to fund all or a portion of such projects, the City may incur additional debt which may be supported by Non-Property Tax Revenues.

For more information regarding the Contingent Obligations, see Note V.C to the 2020 Audited Financial Statements, which is available through EMMA.

### ***Unconditional Obligations***

As of the date of this Official Statement, the City has the following outstanding non-contingent obligations payable from Non-Property Tax Revenues (collectively, the "Unconditional Obligations").

*Port Commission Electrolux Bonds.* The Memphis and Shelby County Port Commission (the "Port Commission"), the State, the County, the City, and the Memphis and Shelby County Industrial Development Board entered into a Site Location and Development Agreement dated December 15, 2010 (the "Development Agreement"), whereby each committed to support the development of a new appliance manufacturing and assembly facility, warehouse and distribution facility and regional headquarters facility for Electrolux Home Products, Inc. (the "Electrolux Development") located in the City and the County, within the Port Commission's boundaries and jurisdiction. The City and the County agreed to match funds of the State to subsidize or assist in the Electrolux Development.

The Port Commission issued its \$40,795,000 Development Revenue Bonds, Series 2011 (the "Port Commission Electrolux Bonds") on September 7, 2011. The Port Commission Electrolux Bonds are secured, in part, by all of the Port Commission's right, title and interest in an interlocal agreement by and among the Port Commission, the County and the City under which the City and the County covenanted to timely appropriate from legally available non-ad valorem tax revenues sufficient money to pay scheduled debt service on the Port Commission Electrolux Bonds.

The obligation of the City and the County to support the payment of debt service on the Port Commission Electrolux Bonds is apportioned on an equal basis (*i.e.*, 50% by the City and 50% by the County). The maximum amount of the City's or the County's respective support obligation under the Development Agreement is equal to the debt service payments on not to exceed \$22,000,000 of the principal amount of the Port Commission Electrolux Bonds. As of June 2, 2021, the Port Commission Electrolux Bonds were outstanding in an aggregate principal amount of \$29,740,000, the City's portion of which is \$14,870,000, and the maximum annual debt service due on the Port Commission Electrolux Bonds and payable by the City is \$1,401,075. The obligation of the City and the County to support the payment of debt service on the Port Commission Electrolux Bonds is not a general obligation of the County or the City. The obligation of the City is required to be paid solely from Non-Property Tax Revenues appropriated by the City for such payments.

The Electrolux Development was completed and the facility commenced operations, including the production of appliances, in June 2013. **[Electrolux Home Products, Inc., announced that it expects to close the Electrolux Development in 2021.]** The City's obligations

with respect to the Port Commission Electrolux Bonds will continue after closure of the Electrolux Development.

Stadium Project Bonds. Pursuant to an Indenture of Trust, dated as of March 1, 2014, the Memphis Center City Revenue Finance Corporation (the "Corporation") issued its \$17,925,000 Sports Facility Revenue Bonds, Series 2014A (Stadium Project) and its \$5,720,000 Sports Facility Revenue Bonds, Series 2014B (Stadium Project) (Federally Taxable) (collectively, the "Stadium Project Bonds"). The proceeds of the Stadium Project Bonds were used to, among other things, provide funds for the purpose of (a) acquiring the Memphis Redbirds Baseball Foundation's interest in and to a AAA minor league baseball stadium and related facilities, known as AutoZone Park (the "Stadium") and certain real property owned by the City on and adjacent to which the Stadium is located (the "Site") in connection with the sale of the Memphis Redbirds franchise and the lease of the Stadium to an affiliate of the St. Louis Cardinals and (b) making a capital contribution for certain improvements to the Stadium and the Site. The Stadium Project Bonds are secured by an assignment and pledge of, among other things, rents payable by the lessee of the Stadium, certain sales tax rebates and other payments to the Corporation (collectively, the "Other Payments") and amounts payable by the City (the "Lease Payments") to the Corporation pursuant to that certain Sublease Agreement, dated as of March 1, 2014, between the Corporation and the City (the "Financing Lease"). The City covenanted and agreed to timely appropriate from legally available non-ad valorem tax revenues sufficient money to pay the Lease Payments after taking into account the credits against such Lease Payments, including the Other Payments. As of June 2, 2021, the Stadium Project Bonds were outstanding in the aggregate principal amount of \$15,290,000 and the maximum annual debt service due and payable is \$2,487,754. The obligation of the City to make the Lease Payments is not a general obligation of the City but rather is required to be paid solely from Non-Property Tax Revenues appropriated by the City for such payments after taking into account the credits against such Lease Payments, including the Other Payments.

During Fiscal Year 2021, the City made a payment under the Financing Lease in the amount of \$1,391,177. Such amount represented 67.5% of the Stadium Project Bond debt service for the year, which was higher than the City's historical payments of 3% to 14% of annual debt service on the Stadium Project Bonds. Due to the COVID-19 pandemic, the 2020 Minor League Baseball season was cancelled, resulting in a significant decrease in revenues available to pay debt service on the Stadium Project Bonds. The City was required under the Financing Lease to cover the shortage in revenues.

2015 QECB Bonds. Pursuant to an Indenture of Trust, dated as of February 18, 2015, the Corporation issued its \$8,316,000 Memphis Center City Revenue Finance Corporation, Qualified Energy Conservation Bonds, Series 2015A (Federally Taxable) (the "Series 2015A QECB Bonds"). In addition, pursuant to an Indenture of Trust, dated as of April 29, 2015, the Corporation issued its \$2,015,300 Memphis Center City Revenue Finance Corporation, Qualified Energy Conservation Bonds, Series 2015B (Federally Taxable) (the "Series 2015B QECB Bonds") and \$340,700 Memphis Center City Revenue Finance Corporation, Qualified Energy Conservation Bonds, Series 2015C (Federally Taxable) (the "Series 2015C QECB Bonds" and together with the Series 2015A QECB Bonds and the Series 2015B QECB Bonds, the "2015 QECB Bonds"). The proceeds of the 2015 QECB Bonds were used to, among other things, provide funds for loans to certain developers under the City's Green Communities Program, which was established to finance loans and grants to eligible participants for energy conservation installations and improvements to

designated facilities. The 2015 QECB Bonds are secured by amounts payable by the City (the "2015 QECB Payments") pursuant to certain lease agreements between the Corporation and the City. The City covenanted and agreed to timely appropriate from legally available non-ad valorem tax revenues sufficient money to pay the 2015 QECB Payments after taking into account indirect subsidy payments received from the U.S. Treasury on account of the 2015 QECB Bonds being qualified energy conservation bonds under Section 54D of the Internal Revenue Code of 1986, as amended (the "2015 Subsidy Payments"). As of June 2, 2021, the QECB Bonds were outstanding in the aggregate principal amount of \$4,033,200 and the maximum annual debt service due and payable was \$1,218,578. The obligation of the City to make the 2015 QECB Payments is not a general obligation of the City but rather is required to be paid solely from Non-Property Tax Revenues appropriated by the City for such payments after taking into account the 2015 Subsidy Payments.

Accelerate Memphis [INSERT Accelerate Memphis disclosure].

Additional Unconditional Obligations. The City expects to fund, from time to time, special projects related to economic development which largely will be payable from specific dedicated revenues. To the extent the City elects to fund all or a portion of such projects, the City may incur additional debt which may be supported by Non-Property Tax Revenues.

For more information regarding the Unconditional Obligations see Note IV.G to the 2020 Audited Financial Statements, which is available through EMMA.

### ***General Fund Obligations***

From time to time, the City has issued and will issue debt backed by the full faith and credit of the City and payable from moneys deposited in the City's General Fund, which include the Non-Property Tax Revenues, including its general improvement bonds and its general obligation commercial paper (together, the "General Fund Obligations"). The amount of General Fund Obligations that may be issued or outstanding at any time is not limited; however, general obligation commercial paper is currently authorized to be issued in an aggregate principal amount outstanding at any time of not to exceed \$150,000,000. As of June 2, 2021, the City had approximately \$150,000,000 in aggregate principal amount of General Fund Obligations issued and outstanding.

Other than the Contingent Obligations, the Unconditional Obligations and the General Fund Obligations, the City has not committed to pay any other debt obligations from the Non-Property Tax Revenues. However, the City also regularly funds various operating expenses of the City from the Non-Property Tax Revenues and is not prohibited from paying or agreeing to pay other obligations of the City, including, without limitation, the City's pension and other-post employment benefit obligations, from the Non-Property Tax Revenues. The City is currently in compliance with the provisions of the Tennessee "Public Employee Defined Benefit Financial Security Act of 2014" (the "Public Employee Defined Benefit Act") requiring all municipalities to eliminate the unfunded accrued liability of public defined benefit pension plans by no later than June 15, 2020. For more information regarding operating expenses of the City payable from the Non-Property Tax Revenues, including the City's pension and other-post employment benefit obligations, see the 2020 Audited Financial Statements, which are available through EMMA. See

also "SECURITY AND SOURCES OF PAYMENT – Revenues, Expenditures and Changes in Fund Balance for the City's General Fund" herein.

***Revenues, Expenditures and Changes in Fund Balance for the City's General Fund***

The following table provides an audited statement of the revenues, expenditures and changes in fund balance for the City's General Fund for Fiscal Years 2016 through 2020.

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**GENERAL FUND<sup>(1)(2)</sup>**  
**REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE**  
**Fiscal Years Ended June 30**  
**(In Thousands of Dollars)**

	2016	2017	2018	2019	2020
<b>Revenues and Other Sources</b>					
Local Taxes <sup>(3)</sup>	\$ 439,805	\$ 442,433	\$ 462,251	\$ 457,743	\$ 462,046
State Taxes (local share)	69,328	65,028	67,290	63,329	67,370
Licenses and Permits	13,171	13,393	13,388	13,674	12,278
Fines and Forfeitures	16,570	14,519	14,551	14,824	11,751
Charges for Services	34,757	33,942	34,193	36,064	34,004
Investment Income	997	892	2,342	5,281	4,237
Federal Grants and Entitlements <sup>(4)</sup>	524	2,017	5,682	17,279	29,907
State Grants <sup>(4)</sup>	1,283	2,049	1,618	1,261	-
Intergovernmental Revenues	5,996	9,409	8,661	9,966	10,760
Other	10,549	9,726	16,761	12,694	18,310
<b>Total Revenues</b>	<b>\$ 592,980</b>	<b>\$ 593,408</b>	<b>\$ 626,737</b>	<b>\$ 632,115</b>	<b>\$ 650,663</b>
<b>Expenditures and Other Uses</b>					
General Government	\$ 139,897	\$ 153,065	\$ 168,662	\$ 167,539	\$ 188,788
Public Safety	405,704	432,578	441,500	454,167	470,721
Community Services	53,996	54,243	58,283	60,794	62,259
Transportation & Environment	14,612	14,162	19,433	17,002	13,076
Lease Payment	-	975	990	843	115
<b>Total Expenditures</b>	<b>\$ 614,209</b>	<b>\$ 655,023</b>	<b>\$ 688,868</b>	<b>\$ 700,345</b>	<b>\$ 734,959</b>
<b>Revenues Over (Under) Expenditures</b>	<b>\$ (21,229)</b>	<b>\$ (61,615)</b>	<b>\$ (62,131)</b>	<b>\$ (68,230)</b>	<b>\$ (84,296)</b>
<b>Other Financing Sources (Uses)</b>					
Salc of capital assets	\$ -	\$ 1,792	\$ 60	\$ 5,493	\$ 19
Transfers In	59,358	69,807	79,653	80,815	85,673
Transfers Out	(18,775)	(7,974)	(23,764)	(23,287)	(7,865)
Refunding bonds/issuance of debt	-	-	-	-	302
Capital Leases	3	-	-	-	-
Special Items	(6,250)	-	-	-	-
<b>Total Other Financing Sources (Uses)</b>	<b>\$ 34,336</b>	<b>\$ 63,625</b>	<b>\$ 55,949</b>	<b>\$ 63,021</b>	<b>\$ 78,129</b>
<b>Net Change in Fund Balances</b>	<b>\$ 13,107</b>	<b>\$ 2,010</b>	<b>\$ (6,182)</b>	<b>\$ (5,209)</b>	<b>\$ (6,167)</b>
<b>Fund Balances - Beginning of Year</b>	<b>132,266</b>	<b>145,373</b>	<b>147,383</b>	<b>141,201</b>	<b>135,992</b>
<b>Fund Balances - End of Year</b>	<b>\$ 145,373</b>	<b>\$ 147,383</b>	<b>\$ 141,201</b>	<b>\$ 135,992</b>	<b>\$ 129,825</b>

(1) Numbers include the Life Insurance Fund and the Park Special Services Fund and the revenues in such funds are restricted.

(2) Totals may not add due to rounding.

(3) For purposes of this table, "Local Taxes" includes ad valorem property taxes and may also include certain non-ad valorem revenues which may be restricted or otherwise unavailable. See "SECURITY AND SOURCES OF PAYMENT – Non-Property Tax Revenues – Historical Collection of Non-Property Tax Revenues" herein.

(4) For purposes of this table, the "Federal Grants and Entitlements" and "State Grants," categories include revenues which are restricted or may otherwise be unavailable. See "SECURITY AND SOURCES OF PAYMENT – Non-Property Tax Revenues – Historical Collection of Non-Property Tax Revenues" herein.

Source: City of Memphis, Tennessee.

### ***Issuance of Additional Obligations Payable from Non-Property Tax Revenues***

The City may incur additional debt which may be supported by Non-Property Tax Revenues.

See "CERTAIN INVESTMENT CONSIDERATIONS" herein.

### ***Recently Adopted and Pending Legislation Affecting Non-Property Tax Revenues***

***The IMPROVE Act.*** The Improving Manufacturing, Public Roads and Opportunities for a Vibrant Economy Act (the "IMPROVE Act"), the primary purpose of which is to raise taxes to fund transportation and road projects, has been adopted by the Tennessee General Assembly and was executed into law by the Governor on April 26, 2017. The IMPROVE Act eliminated the Hall income tax, which is a tax on income derived from dividends on stock and interest on bonds, for tax years beginning on or after January 1, 2022. The rate at which the Hall income tax is reduced in the tax years prior to January 1, 2022, is determined through the State's annual budgeting process. Because three-eighths of the proceeds derived from the Hall income tax is distributed to local governments, elimination of the Hall income tax will eliminate a source of income for the City.

***Internet Sales Tax.*** In light of a 2018 decision by the U.S. Supreme Court that a physical presence is no longer required in order for a person to have a substantial nexus subjecting the person to taxation by a state, the Tennessee General Assembly enacted House Bill 667, which provides that the Tennessee Department of Revenue is no longer prohibited from collecting internet sales and use taxes from certain persons having no physical presence in the State but who sell to consumers located in the State. To implement the State's new authorization to collect internet sales and use taxes, the Tennessee General Assembly adopted Senate Bill 0082 and its companion, House Bill 0733 (together, the "Internet Sales Tax Law"). Effective January 1, 2020, the Internet Sales Tax Law requires a dealer with no physical presence in the State to collect and remit sales tax if, in the previous 12-month period, the dealer's gross revenues from sales in the State exceed \$100,000 or the dealer made 200 or more separate sales transactions in the State. The Internet Sales Tax Law further provides that proceeds of such internet sales taxes must be distributed among counties in proportions reflecting the amount of such sales taxes collected for each county. Because the City will share in the sales taxes distributed to the County, the sales taxes authorized under the Internet Sales Tax Law should result in an increase in sales tax revenue for the City.

***Increased Share of Sales Tax.*** Senate Bill 1158 and its companion, House Bill 1007 (together, the "Increased Sales Tax Share Bill"), if adopted, would decrease the amount of state sales and use tax revenues deposited to the State's General Fund from 29.0141% to 28.5262% and increase the share of such sales and use tax revenues appropriated to municipalities, including the City, from 4.6030% to 5.0909%, thereby increasing the amount of sales tax revenues allocated to the City. The Tennessee General Assembly is **[currently in recess and will not consider the Increased Sales Tax Share Bill until it returns]**.

***Traffic Enforcement Cameras.*** Senate Bill 2002 and its companion, House Bill 1656 (together, the "Traffic Camera Bill"), have been introduced for consideration by the Tennessee

General Assembly. The Traffic Camera Bill would prohibit the issuance of traffic citations based solely on evidence obtained from unmanned traffic cameras used to monitor traffic signal violations or speed limits. If adopted, the Traffic Camera Bill will result in a decrease in revenues from traffic fines for the City. The Tennessee General Assembly **[is currently in recess and will not consider the Traffic Camera Bill until it returns]**.

*Deannexation Bills.* In recent years, various bills have been introduced for consideration by the Tennessee General Assembly which would allow voters residing in an area annexed by a Tennessee city to petition the county election commission to hold an election to deannex the area or which would have a similar impact ("Deannexation Bill"). In light of attempts in recent years to deannex ten areas annexed by the City since 1998, passage of any Deannexation Bill could lead to actual deannexation of some or all of those areas, thereby resulting in a negative impact on the City's property and sales tax revenues. **[Though the City deannexed the Eads and Riverbottom areas in 2019 and the Southwind-Wyndyke, South Cordova and Rocky Point areas in 2020, those deannexations were implemented at the discretion of the City for the benefit of the entire City and not forced by an election of the residents of only those areas.]** Though one could be introduced at any time, no Deannexation Bill has yet been introduced to the current Tennessee General Assembly.

#### **Flow of Funds Under the Indenture**

Under the Indenture, the Issuer will establish with the Bond Trustee and maintain so long as any Bonds remain Outstanding a separate fund known as the "Revenue Fund." All payments of TDZ Revenues made by the City pursuant to the Loan Agreement pledged under the Indenture, as and when received by the Bond Trustee, will be deposited into the Revenue Fund and will be held therein until disbursed as provided in the Indenture. Pursuant to the assignment and pledge of payments under the Loan Agreement set forth in the Indenture, the Issuer will direct the City to make such payments to the Bond Trustee when and as the same become due and payable by the City under the Loan Agreement.

The Bond Trustee will, on or before November 1 of each Fiscal Year, make deposits and payments from all amounts in the Revenue Fund in the amounts and in the order of priority set forth below, in each case to the extent of available funds on deposit therein:

(a) To the Debt Service Fund, an amount which, together with the amount then on deposit in the Debt Service Fund, equals the sum of (i) the principal of Outstanding Bonds payable at maturity or through mandatory Sinking Fund Redemption during the twelve (12) calendar months next succeeding the date of such deposit, plus (ii) the interest on such Outstanding Bonds, including the Series 2021 Bonds, payable during the twelve (12) calendar months next succeeding the date of such deposit; then

(b) To each Debt Service Reserve Account, if any, *pro rata* based on the respective Debt Service Reserve Requirements therefor, an amount which, together with the amount then on deposit in such Debt Service Reserve Account, equals such Debt Service Reserve Requirement; *provided, however*, that this provision is inapplicable to the Series 2021 Bonds Debt Service Reserve Account; then

(c) To the Expense Fund, the estimated Operating Expenses for the next succeeding twelve (12) calendar months as certified to the Bond Trustee by the City; then

(d) To the City, the amount of Non-Property Tax Revenues theretofore paid by the City pursuant to the Indenture for which it has not previously been reimbursed pursuant to this clause; and, then,

(e) To the Surplus Fund, any amount remaining in the Revenue Fund after the preceding deposits and payments have been made.

### **Debt Service Fund**

The Issuer will establish with the Bond Trustee and maintain as long as any Bonds are Outstanding a separate fund known as the "Debt Service Fund." Within the Debt Service Fund there will be established the "Capitalized Interest Account." Deposits to the credit of the Capitalized Interest Account will be made in accordance with the Indenture. The Bond Trustee will apply the money on deposit in the Debt Service Fund, first, together with the amounts available in the Capitalized Interest Account or transferred from the Debt Service Reserve Fund or the Surplus Fund, to the payment of interest on Outstanding Bonds when due, and, then, to the payment of the principal of Outstanding Bonds when due either at maturity or through a mandatory Sinking Fund Redemption.

Money on deposit in the Capitalized Interest Account from proceeds of a series of Bonds will be transferred to the Debt Service Fund in the amounts and at the times specified by the Supplemental Indenture authorizing the issuance of such Bonds.

Transfers from the Surplus Fund, the Debt Service Reserve Fund and Non-Property Tax Revenues. If on the fifth Business Day immediately prior to the date on which the principal of or interest on Outstanding Bonds is payable, with respect to principal either at maturity or through mandatory Sinking Fund Redemption, there is insufficient money in the Debt Service Fund to make such payment, the Bond Trustee shall transfer from the Surplus Fund to the Debt Service Fund an amount equal to the deficiency therein to the extent of the available money in the Surplus Fund.

If on the fifth Business Day immediately prior to the date on which the principal of or interest on Outstanding Bonds of a series that is secured by a Debt Service Reserve Account is payable, with respect to principal either at maturity or through mandatory Sinking Fund Redemption, there is insufficient money in the Debt Service Fund to make such payment after any transfer thereto from the Surplus Fund, the Bond Trustee shall transfer from such Debt Service Reserve Account to the Debt Service Fund an amount equal to the deficiency therein to the extent of the available money in such Debt Service Reserve Account, which shall be applied solely to the payment of principal of or interest on such series of Bonds.

If on November 2 of any Fiscal Year, the amount on deposit in the Debt Service Fund is less than the aggregate amount required for the payment of the principal of Outstanding Bonds due at maturity or through a mandatory Sinking Fund Redemption, and the interest on all Outstanding Bonds due on the next Interest Payment Date, the Bond Trustee shall promptly, but in any event within five (5) Business Days, give written notice thereof to the Issuer and the City.

If on the fifth Business Day immediately prior to either the date on which the principal of Outstanding Bonds is payable, either at maturity or through mandatory Sinking Fund Redemption, or any Interest Payment Date, and after the transfers from the Surplus Fund and Debt Service Reserve Fund, there is insufficient money in the Debt Service Fund to pay such principal or interest, the Bond Trustee shall make demand upon the City for the payment of Non-Property Tax Revenues to the Debt Service Fund of an amount equal to the deficiency therein, which payment shall be made by the City no later than the Business Day immediately prior to the date on which the principal or interest on Outstanding Bonds is payable, which amount upon receipt shall be deposited in the Debt Service Fund and applied solely to the payment of principal of and interest on such Bonds. The City also may make any such payment in advance of the time required by the foregoing provisions without the necessity of any demand therefor. Notwithstanding the foregoing, payments of Non-Property Tax Revenues by the City pursuant to the Loan Agreement are subject to annual appropriation by the City, and the City may use Non-Property Tax Revenues for other purposes, including the payment of other City indebtedness. No assurance can be given that the City Council will appropriate such funds.

#### **Debt Service Reserve Fund – Temporary Debt Service Reserve Requirement for the Series 2021 Bonds**

The Issuer will establish with the Bond Trustee a separate fund known as the "Debt Service Reserve Fund." Any Supplemental Indenture may specify whether there will be established with the Bond Trustee a Debt Service Reserve Account within the Debt Service Reserve Fund to secure any particular series of Bonds and, if so, shall establish the Debt Service Reserve Requirement therefor and provide for the initial funding thereof. Money in any Debt Service Reserve Account so created will be withdrawn by the Bond Trustee and deposited to the credit of the Debt Service Fund at the times and in the amounts and for the purposes described under the heading "SECURITY AND SOURCES OF PAYMENT – Debt Service Fund" above; provided, however, that moneys withdrawn from a Debt Service Reserve Account established for a particular series of Bonds shall be applied only to the payment of principal of and interest on such series of Bonds. Amounts in any Debt Service Reserve Account for a particular series of Bonds that are at any time in excess of the Debt Service Reserve Requirement applicable thereto shall, upon request of the City, be withdrawn therefrom by the Bond Trustee and deposited into the Debt Service Fund for the benefit of that particular series of Bonds.

Pursuant to the terms of the Indenture, there is established the "Series 2021 Bonds Debt Service Reserve Account" within the Debt Service Reserve Fund for the Series 2021 Bonds, which Series 2021 Bonds Debt Service Reserve Account will be funded with proceeds of the Series 2021 Bonds in an amount equal to the Debt Service Reserve Requirement for the Series 2021 Bonds. Pursuant to the Indenture, funds in the Series 2021 Bonds Debt Service Reserve Account will be used to pay the principal of, premium, if any, and interest on the Series 2021 Bonds to the extent that TDZ Revenues are insufficient therefor. The Series 2021 Bonds Debt Service Reserve Account will initially be funded from proceeds of the Series 2021 Bonds in the amount of \$[\_\_\_\_\_] , which amount is equal to [debt service] on the Series 2021 Bonds until \_\_\_\_\_. The Debt Service Reserve Requirement for the Series 2021 Bonds will be \$[\_\_\_\_\_] until [\_\_\_\_\_] , 202[7], after which time the Debt Service Reserve Requirement will be \$0. [To the extent that the Bond Trustee makes any draws on the Series 2021 Bonds Debt Service Reserve Account to pay debt service on the Series 2021 Bonds, neither the Issuer nor the City

will be required to replenish the monies in the Series 2021 Bonds Debt Service Reserve Account in an amount equal to the Debt Service Reserve Requirement for the Series 2021 Bonds prior to [\_\_\_\_], 202[7].] Any amounts in the Series 2021 Bonds Debt Service Reserve Account remaining after [\_\_\_\_], 202[7], will, upon request of the City, be withdrawn from the Series 2021 Bonds Debt Service Reserve Account by the Bond Trustee and deposited in the [Debt Service Fund for payment of debt service on the Series 2021 Bonds].

#### **Other Funds**

Expense Fund. The Issuer will establish with the Bond Trustee and maintain so long as any Bonds are Outstanding a separate fund to be known as the "Expense Fund." Money in the Expense Fund will be used only for payment of the Operating Expenses or to reimburse the City for Operating Expenses theretofore paid by it for which it has not previously been reimbursed.

Surplus Fund. The Issuer will establish with the Bond Trustee and maintain so long as any Bonds are Outstanding a separate fund to be known as the "Surplus Fund." Money will be deposited into the Surplus Fund in the manner described under the section entitled "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2020 BONDS – Flow of Funds" herein. Money in the Surplus Fund will be withdrawn by the Bond Trustee and deposited, first, to the credit of the Debt Service Fund at the times and in the amounts required by the Indenture and, second, to the extent of any excess, to cause the amounts on deposit in any Debt Service Reserve Accounts within the Debt Service Reserve Fund to equal the respective Debt Service Reserve Requirement therefor, if necessary; *provided, however*, that this provision is inapplicable to the Series 2021 Bonds Debt Service Reserve Account. Money remaining in the Surplus Fund at any time, if not then required for transfer pursuant to the preceding sentence, shall be paid, applied, withdrawn, deposited or transferred for any one or more of the following:

- (a) To reimburse the City for payments made from Non-Property Tax Revenues pursuant to the Indenture for which the City has not previously been reimbursed;
- (b) To apply to either or both of: (i) the optional or extraordinary redemption or purchase of Outstanding Bonds in accordance with the Supplemental Indenture authorizing the Bonds to be purchased or redeemed; and (ii) defeasance of Outstanding Bonds;
- (c) To pay Costs of the Project or to reimburse the City for Costs of the Project paid by the City for which the City has not previously been reimbursed;
- (d) To deposit into the Debt Service Fund pursuant to the Indenture in connection with the issuance of certain additional Bonds; and
- (e) To the City or an indenture or bond trustee for the payment of principal of or premium, if any, or interest on any indebtedness (other than indebtedness issued under the Indenture) of any authorized issuer or the City to pay Costs of the Project, for the payment of other Costs of the Project or for any other lawful purpose.

Construction Fund. The Issuer shall establish with the Bond Trustee a separate fund to be known as the "Construction Fund." Any money received by the Bond Trustee from any source for the acquisition, construction, renovation, rehabilitation, remodeling, furnishing or equipping

portions of the Project shall be deposited in the Construction Fund unless otherwise specifically excepted in the Indenture. The money in the Construction Fund will be held in trust by the Bond Trustee, will be applied to the payment of Costs of the Project and, pending such application, will be held as trust funds under the Indenture in favor of the Holders of the Outstanding Bonds and for the further security of such Holders until paid out or transferred as provided in the Indenture. All payments from the Construction Fund will be made only upon receipt by the Bond Trustee of a requisition of the City, signed by an Authorized Officer of the City.

The completion date of the Project will be established by the filing with the Bond Trustee of an Officer's Certificate of the City to the effect that the moneys, if any, on deposit in the Construction Fund are no longer required by the City for the payment of Costs of the Project. Upon the filing of such Officer's Certificate, any money then remaining in the Construction Fund, shall upon the request of the City be (i) transferred to the Debt Service Fund in the amounts set forth in such request or (ii) applied to the redemption or defeasance of Outstanding Bonds in accordance with the Indenture.

*Optional Redemption Fund.* The Issuer shall establish with the Bond Trustee and maintain so long as any of the Bonds are Outstanding a separate fund to be known as the "Optional Redemption Fund." In the event of (i) prepayment by or on behalf of the City of amounts payable under the Loan Agreement pledged under the Indenture, including prepayment with condemnation or insurance proceeds, or (ii) deposit with the Bond Trustee by the City or the Issuer of money from any other source for redeeming Bonds, except as otherwise provided in the Indenture, such money shall be deposited into the Optional Redemption Fund. Money on deposit in the Optional Redemption Fund shall be used, first, to make up any deficiencies existing in the Debt Service Fund and, second, for the redemption or purchase of Bonds in accordance with the provisions of the Indenture.

### **Issuance of Additional Bonds**

Subject to the satisfaction of certain terms and conditions in the Indenture, the Issuer may issue additional Bonds from time to time, payable from the Trust Estate, to, among other things, pay Costs of the Project, including interest on Bonds, pay certain expenses incurred in connection with the issuance of the Bonds, fund any debt service reserves and pay or provide for the payment of Outstanding Bonds or any portion of any thereof.

Such additional series of Bonds (other than Refunding Bonds) may be issued only if, among other things, the City can demonstrate pursuant to the terms of the Indenture that either:

(1) The TDZ Revenues collected during the preceding Fiscal Year are at least equal to [ ] times the Maximum Annual Debt Service on the Outstanding Bonds after giving effect to the issuance of such additional Bonds; or

(2) The projected TDZ Revenues for the first full Fiscal Year after projected completion of acquisition or construction of the facilities or improvements financed with proceeds of such additional Bonds are at least equal to [ ] times the Maximum Annual Debt Service on the Outstanding Bonds after giving effect to the issuance of such additional Bonds.

## **Refunding Bonds**

Refunding Bonds may be issued pursuant to the Indenture to pay or provide for the payment of any or all Outstanding Bonds only if, among other things, **[(i) the Maximum Annual Debt Service on the Bonds Outstanding after giving effect to the issuance of the Refunding Bonds will not be greater than the Maximum Annual Debt Service on the Bonds Outstanding immediately preceding issuance of the Refunding Bonds, and (ii)]** the amount payable in any Bond Year for the principal of, including through mandatory Sinking Fund Redemption, and interest on Bonds Outstanding after giving effect to the issuance of the Refunding Bonds will not be greater than the amount payable during any Bond Year on the Bonds Outstanding immediately preceding issuance of the Refunding Bonds.

## **Limited Obligations**

The Bonds are limited obligations of the Issuer payable solely from and secured by an assignment and pledge of the Trust Estate.

THE BONDS AND THE INTEREST THEREON DO NOT NOW AND SHALL NEVER CONSTITUTE A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF INCLUDING, WITHOUT LIMITATION, THE CITY AND THE COUNTY, AND THE BONDS AND THE INTEREST THEREON DO NOT NOW AND SHALL NEVER CONSTITUTE A DEBT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING, WITHOUT LIMITATION, THE CITY AND THE COUNTY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF INCLUDING, WITHOUT LIMITATION, THE CITY AND THE COUNTY, SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER THAT MAY BE UNDERTAKEN BY THE ISSUER. NO BREACH BY THE ISSUER OF ANY SUCH PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT SHALL IMPOSE ANY LIABILITY, PECUNIARY OR OTHERWISE, UPON THE STATE OR ANY POLITICAL SUBDIVISION THEREOF INCLUDING, WITHOUT LIMITATION, THE CITY AND THE COUNTY, OR ANY CHARGE UPON THEIR GENERAL CREDIT OR TAXING POWER. THE ISSUER HAS NO TAXING POWER, AND THE BONDS AND THE INTEREST THEREON DO NOT NOW AND SHALL NEVER CONSTITUTE A CHARGE AGAINST THE GENERAL CREDIT OF THE ISSUER.

## **SALES TAX IMPACT ANALYSIS**

### **RKG**

In connection with the issuance of the Series 2021 Bonds and as provided herein, RKG prepared the Sales Tax Impact Analysis to provide, among other things, a forecast of the TDZ Revenues to be generated from the Project.



RKG is an economic planning and real estate consultancy with offices in Washington, DC; Boston; Atlanta; Dallas; and Durham, New Hampshire. RKG specializes in the application of economic and market analysis to economic development, real estate development and financing issues, toward the goal of attracting private sector investment and job creation. Since its founding in 1981, RKG has completed more than 2,000 consulting projects across the world, providing a comprehensive range of market research, economic, planning, and financial feasibility services to governmental, business and institutional clients.

### **Executive Summary of the Sales Tax Impact Analysis**

*The following executive summary of the Sales Tax Impact Analysis was provided solely by RKG. The complete Sales Tax Impact Analysis is presented in "APPENDIX B – SALES TAX IMPACT ANALYSIS FOR MEMPHIS SPORTS & EVENTS CENTER AND TDZ" attached hereto. The Sales Tax Impact Analysis describes key factors that affect demand for the Project and that affect the generation of TDZ Revenues and sets forth assumptions on which the forecasts and estimates set forth therein are based. There is no assurance that actual events will correspond with the assumptions on which such forecasts and estimates are based. Consequently, no guarantee can be made that forecasted operating results will correspond with the results actually achieved in the future. See "FORWARD-LOOKING STATEMENTS" herein. The Sales Tax Impact Analysis should be read in its entirety for an understanding of the estimated operating results and the underlying assumptions.*

**[To be updated with new RKG report.]**

The Sales Tax Impact Analysis is set forth in its entirety in "APPENDIX B – SALES TAX IMPACT ANALYSIS FOR THE MEMPHIS SPORTS & EVENTS CENTER AND TDZ" attached hereto.

### **CERTAIN INVESTMENT CONSIDERATIONS**

#### **General**

The purchase of the Series 2021 Bonds is subject to a number of investment considerations. The following is a discussion of certain investment considerations, which, among others, could affect the ability of the Issuer to pay principal of, premium, if any, and interest on the Series 2021 Bonds and which could also affect the marketability of, or the market price for, the Series 2021 Bonds. Such discussion is not, and is not intended to be, a comprehensive compilation of all possible investment considerations nor a substitute for an independent evaluation of the information presented in this Official Statement, including the appendices attached hereto. Each prospective purchaser of any Series 2021 Bond should read this Official Statement, including the appendices attached hereto, in its entirety and consult such prospective purchaser's own investment or legal advisor for a more complete explanation of the matters that should be considered when purchasing an investment such as the Series 2021 Bonds.

### **Enforceability of Remedies**

The remedies available to the owners of the Series 2021 Bonds upon an event of default under the Indenture are in many respects dependent upon judicial actions which are often subject to discretion and delay.

The enforceability of remedies or rights with respect to the Series 2021 Bonds may be limited by state and federal laws, rulings and decisions affecting remedies and by bankruptcy, insolvency or other laws affecting creditors' rights or remedies heretofore or hereafter enacted. Under existing constitutional and statutory law and judicial decisions, including specifically Title 11 of the United States Code (federal bankruptcy code), certain remedies specified by the Indenture or the Loan Agreement may not be readily available or may be limited.

Under existing law, municipalities must obtain the consent of state government in order to avail themselves of federal bankruptcy protection under Title 11 of the United States Code. However, there is currently no State law granting such consent. The various legal opinions to be delivered concurrently with the delivery of the Series 2021 Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by bankruptcy, reorganization, insolvency, moratorium, or other similar laws affecting the rights of creditors generally or as to the availability of any particular remedy.

### **Early Payment Prior to Maturity**

The Series 2021 Bonds are subject to optional redemption prior to maturity, as more fully described herein. See "THE SERIES 2021 BONDS - Redemption Provisions" herein. A prospective investor should consider these redemption rights when making any investment decision. Following redemption, the owners of the Series 2021 Bonds may not be able to reinvest their funds at a comparable interest rate.

### **Non-Recourse Obligation**

The Series 2021 Bonds are limited obligations of the Issuer payable solely from and secured by an assignment and pledge of the Trust Estate, which consists primarily of the payments and prepayments to be received by the Issuer from the City under and pursuant to the Loan Agreement (excluding the Unassigned Rights). Holders of Series 2021 Bonds will have no recourse against any other assets of the Issuer or the City. Neither the Project nor any other Qualified Public Use Facility located within the Liberty Park TDZ and approved by the State in the future is pledged to secure the Series 2021 Bonds or any Additional Bonds. Neither the full faith and credit nor the taxing power of the State, the City or any other political subdivision are available to pay debt service on the Series 2021 Bonds. The Issuer has no taxing power. See "SECURITY AND SOURCES OF PAYMENT," "CERTAIN INVESTMENT CONSIDERATIONS - Considerations Relating to TDZ Revenues" and "CERTAIN INVESTMENT CONSIDERATIONS - Considerations Relating to Non-Property Tax Revenues" herein and "APPENDIX A DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto.

## Considerations Relating to TDZ Revenues

Overview. The receipt of TDZ Revenues is contingent upon, and the amount generated will be affected by, a variety of factors, including but not limited to the following: economic conditions in the City and the region; competition from other retail businesses and internet sales; local unemployment; availability of transportation; neighborhood changes; crime levels in the area; vandalism; operating costs; interruption or termination of business operations in the Liberty Park TDZ as a result of fire, natural disaster, strikes or similar events, among other factors. The amount of TDZ Revenues generated in each Fiscal Year will be dependent upon current and future managers and owners of public and private facilities and retail operations within the Liberty Park TDZ and their ability to maintain operations. As a result, it is not possible to predict with certainty the amount of TDZ Revenues which will be generated in each Fiscal Year. The retail sales industry is highly competitive. Furthermore, payment of sales taxes is the responsibility of each merchant; if a merchant fails to pay such taxes to the State, the amount and timing of TDZ Revenues to be distributed to the City could be adversely affected.

The receipt of TDZ Revenues is affected by and subject to conditions which may change in the future to an extent and with effects that cannot be determined at this time. The receipt of TDZ Revenues is subject to economic factors and other conditions which are impossible to predict.

Damage or Destruction within the Liberty Park TDZ. The partial or complete destruction of any retail or other businesses or facility within the Liberty Park TDZ as a result of fire, natural disaster or similar casualty event, or the temporary or permanent closing of one or more retail operations due to strikes or business failure, would adversely affect the amount of TDZ Revenues generated within the Liberty Park TDZ in the Fiscal Years affected.

Economic Conditions. TDZ Revenues are expected to be sensitive to changes in local, regional, and national economic conditions. For example, TDZ Revenues may decline during economic recessions, when high unemployment adversely affects recreation and consumption. Demographic changes in the population of the region may adversely affect the level of TDZ Revenues. A decline in population, or reductions in the level of tourism in the area, could reduce the number and value of taxable transactions and thus reduce the amount of TDZ Revenues. It is not possible to predict whether or to what extent any such changes in economic conditions, demographic characteristics, population or commercial and industrial activity will occur, and what impact any such changes would have on TDZ Revenues. See "CERTAIN INVESTMENT CONSIDERATIONS – COVID-19" herein.

Competition. It is possible that other stores and centers in the trade area could provide competition to the businesses in the Liberty Park TDZ and new competitors may be developed. Competition between retail operators within the Liberty Park TDZ could adversely affect sales of other retail operators within the Liberty Park TDZ. Such competition could adversely affect the ability of the Liberty Park TDZ to generate TDZ Revenues in each Fiscal Year in amounts sufficient to make scheduled payments on the Series 2021 Bonds.

Possible Changes to State and Local Law. The Tennessee General Assembly has the authority to amend the provisions of State law governing TDZ Revenues. The Tennessee General Assembly may change the rates and calculation methods from time to time and may decrease or

increase rates at any time. These changes may affect the amount of TDZ Revenues generated and made available in any Fiscal Year. Similarly, changes to the tax base and exemptions may affect the amount of TDZ Revenues available for payment on the Series 2021 Bonds. Any change in the current system of collection and distribution of sales taxes within the State, including without limitation the reduction or elimination of any such tax, or judicial action concerning any such tax, most likely would impact the amount of TDZ Revenues for the Fiscal Year in question. There can be no assurance that the current system of collection and distribution of TDZ Revenues will not be changed by any entity having jurisdiction to do so, including without limitation the State.

*State Option to Terminate Disbursement of TDZ Revenues to the City.* In accordance with the Tourism Development Financing Act, the City's right to receive continuing distributions of TDZ Revenues resulting from state and local sales tax collections made in the Liberty Park TDZ may be terminated by the State under certain circumstances. **[However, pursuant to the State's approval of the City's application in connection with the issuance of the Series 2021 Bonds, the City is entitled to receive TDZ Revenues in an amount at least equal to the amount of the debt service on the Series 2021 Bonds.]**

*Limited Restriction on Pledge of TDZ Revenues.* Pursuant to the Loan Agreement and in order to provide for the timely payment of the principal of, premium, if any, and interest on the Series 2021 Bonds, the City has covenanted and agreed to pay to the Bond Trustee, on or prior to the time required by the Loan Agreement with respect to all Bonds, including the Series 2021 Bonds, all TDZ Revenues received by the City for use by the Bond Trustee in accordance with and as prescribed by the Indenture. In addition to being used to pay the principal of or premium, if any, or interest on the Series 2021 Bonds, TDZ Revenues on deposit in the Surplus Fund may be used to: (i) reimburse the City for payments made from Non-Property Tax Revenues deposited into the Debt Service Fund; (ii) redeem, purchase or defease Outstanding Bonds in accordance with the supplemental indenture authorizing the issuance of the Bonds to be purchased or redeemed; (iii) pay, or reimburse the City for, the Costs of the Project; (iv) deposited into the Debt Service Fund in connection with the issuance of certain additional Bonds; and (v) pay the principal of or premium, if any, or interest on any indebtedness (other than Bonds) of any authorized issuer or the City to pay Costs of the Project.

See "SECURITY AND SOURCES OF PAYMENT" herein and "APPENDIX A DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto.

### **Considerations Relating to Non-Property Tax Revenues**

*Overview.* The receipt of Non-Property Tax Revenues is affected by and subject to conditions which may change in the future to an extent and with effects that cannot be determined at this time. The receipt of Non-Property Tax Revenues is subject to economic factors and other conditions which are impossible to predict.

*No Restriction on Pledge of Non-Property Tax Revenues.* Pursuant to the Loan Agreement, the City has covenanted and agreed to pay with respect to the Series 2021 Bonds, on or prior to the time required by the Loan Agreement, Non-Property Tax Revenues in an amount necessary, together with other amounts on deposit or to be deposited to certain accounts under the Indenture,

to make the deposits required under the Loan Agreement; provided, however, that the provisions of the Loan Agreement shall not preclude the City from pledging Non-Property Tax Revenues to the payment of other indebtedness. In addition to the Series 2021 Bonds, any Additional Bonds for which Non-Property Tax Revenues may be pledged in the future, the Outstanding Contingent Obligations and the Outstanding Unconditional Obligations, the Non-Property Tax Revenues also serve as a source of payment for various other obligations of the City, including various operating expenses of the City and other obligations otherwise payable from the General Fund of the City. See "SECURITY AND SOURCES OF PAYMENT" herein and "APPENDIX A DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto.

*Sufficiency of Non-Property Tax Revenues.* There can be no assurance that the Non-Property Tax Revenues received by the City will be sufficient to pay principal of, premium, if any, and interest on the Series 2021 Bonds. The City has no obligation to increase any taxes or fees to pay principal of, premium, if any, and interest on the Series 2021 Bonds.

*Pledge of Non-Property Tax Revenues Subject to Appropriations.* The City has further covenanted and agreed to include in its annual budget and appropriate for payment to the Bond Trustee from its Non-Property Tax Revenues payments due with respect to the Series 2021 Bonds in accordance with the terms of the Loan Agreement. No assurance can be given that the City Council will appropriate such funds. See "SECURITY AND SOURCES OF PAYMENT" herein and "APPENDIX A DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT" attached hereto.

*Possible Changes to State and Local Law.* The Tennessee General Assembly has the authority to amend the provisions of State law governing certain of the Non-Property Tax Revenues. The Tennessee General Assembly may change the rates and calculation methods from time to time and may decrease or increase non-ad valorem taxes and fees at any time. These changes may affect the amount of Non-Property Tax Revenues generated and made available in any Fiscal Year. Similarly, changes to the tax base and exemptions may affect the amount of Non-Property Tax Revenues available for payment on the Series 2021 Bonds. Any change in the current system of collection and distribution of non-ad valorem taxes and fees within the State, including without limitation the reduction or elimination of any such taxes or fees, or judicial action concerning any such taxes or fees, most likely would impact the amount of Non-Property Tax Revenues for the Fiscal Year in question. There can be no assurance that the current system of collection and distribution of Non-Property Tax Revenues will not be changed by any entity having jurisdiction to do so, including without limitation the State. Any reduction in Non-Property Tax Revenues or any repeal of any of the taxes and fees making up Non-Property Tax Revenues may cause a material reduction in Non-Property Tax Revenues.

See "SECURITY AND SOURCES OF PAYMENT – Non-Property Tax Revenues" herein.

### **Limitations on Remedies**

The occurrence of an event of default under the Indenture or the Loan Agreement will not permit the acceleration of the maturity of, or allow immediate payment for, the entire outstanding principal balance of any series of the Series 2021 Bonds. Due to the fact that payment of the Series

2021 Bonds is not secured by a mortgage lien or other security interests in the Project or any portion thereof or any other assets of the Issuer or the City, Holders of Series 2021 Bonds will be limited to seeking remedies against the Trust Estate.

### **Secondary Market Prices**

No assurance can be given that a secondary market for any of the Series 2021 Bonds will be available and no assurance can be given that the initial offering prices for the Series 2021 Bonds will continue for any period of time.

The Series 2021 Bonds may not constitute a liquid investment, and there is no assurance that a liquid secondary market will exist for the Series 2021 Bonds in the event an owner thereof determines to solicit purchasers of the Series 2021 Bonds. Even if a liquid secondary market exists, there can be no assurance as to the price for which the Series 2021 Bonds may be sold. Such price may be lower than that paid by the current owner of the Series 2021 Bonds, depending on existing market conditions and other factors.

### **Seismic Risks**

The City is located adjacent to the New Madrid seismic zone, which is the most seismically active and well-studied region in the Central and Eastern United States. The last major earthquakes located within this seismic zone, believed to have ranged between 7.0 and 7.7 in magnitude, occurred in 1811 and 1812. According to the U.S. Geological Survey, there is a 7-10% chance that a repeat of earthquakes of similar scale to the 1811 and 1812 earthquakes will occur within the next 50 years and a 25-40% risk of a still dangerous earthquake in the low-6 magnitude. During the past 25 years, building codes in the City and the County have been gradually upgraded to require stricter seismic construction standards. However, many older buildings, particularly in the downtown area, are masonry structures built long before seismic requirements and are believed to be highly vulnerable to shaking from an earthquake.

In addition to the potential damage to the Project and to other buildings and facilities within the City, due to the importance of the City as a tourist destination and regional hub of commercial, retail and entertainment activity, a major earthquake may cause significant temporary and possibly long-term harm to the City's economy, tax receipts and residential and business real property values.

### **Climate Change**

Numerous scientific studies have detailed changing global weather patterns and the potential for increasing extreme weather events across the world. The City's location in the southern United States and next to the Mississippi River increases its vulnerability to flooding and extreme heat. In addition to flooding and extreme heat, the City faces other threats due to climate change, including both drought and damaging wind that could become more severe and frequent. The City and the County have collaborated to develop a Climate Action Plan, which is intended to measure and lessen the City's contributions to climate change. The Issuer and the City cannot predict the timing, extent or severity of climate change and its impact on the Project or the City's operations and finances, including revenues used to support the Series 2021 Bonds.

## Cyber Security

The City utilizes various computer systems and network technology to perform many of its vital operations. Such operations often include the storage and transmission of sensitive information. As a result, the City may be the target of cyberattacks attempting to gain access to such information. In addition to intentional attacks, information breaches may occur due to unintentional employee error. A successful cyberattack or unintentional breach may require the expenditure of an unknown amount of money or time to resolve, substantially interrupt municipal services and operations and subject the City to legal action. The City has no knowledge of, nor historical record of, any successful cyber security breach or related attack. Attempted cyber security attacks, whether anonymous or targeted, occur on a periodic frequency that is not uncommon to organizations or entities similar to the City. To mitigate against such risks, the City has instituted various policies and procedures to protect its network infrastructure, including a cyber-security training requirement for certain departments, as well as general cyber security training and awareness for all employees. The City also maintains insurance against cyber security incidents. Despite the City's measures to safeguard its network infrastructure, there are no guarantees that such measures will be successful.

## COVID-19

The worldwide spread of COVID-19, a respiratory illness caused by a novel strain of coronavirus, is a pandemic that has affected the entire world, including the City, and is considered by the World Health Organization to be a Public Health Emergency of International Concern. The Governor of the State issued a state of emergency for the State in March 2020 in response to the COVID-19 pandemic. The spread of COVID-19 has led to quarantine and other "social distancing" measures throughout the United States, including the City. These measures have included (i) the closure, from time to time, of nonessential businesses, (ii) recommendations and warnings to limit nonessential travel and promote telecommuting, (iii) the postponement or cancellation of large-scale gatherings such as conventions, concerts and sporting events, (iv) limits on operations and customer capacity at commercial and retail establishments and (v) the closure of school buildings. In response to the pandemic, many of the City's notable tourist attractions have, from time to time, closed or operated at reduced capacity. Similarly, travel to the City and hotel stays within the City have decreased since the onset of the pandemic. The State continues to be under a state of emergency and the Governor of the State may continue to issue executive orders to facilitate continued response to the COVID-19 pandemic. The County and the City may also issue future restrictions in response to the pandemic. **[As of [\_\_\_\_], 20[21], there were approximately [\_\_\_\_] confirmed cases of COVID-19 in the County and [\_\_\_\_] deaths.]**

Multiple vaccines for the virus that causes COVID-19 were developed in late 2020. To date, **[three]** vaccines have been approved for distribution in the United States with **[each of these vaccines having an efficacy rate exceeding [\_\_\_\_]%]**. Multiple variants of the virus that causes COVID-19 have been documented in the United States and globally, but studies so far suggest that antibodies generated through vaccination with approved vaccines recognize these variants to varying extents. Because of a shortage in the amount of vaccines available, however, only residents that the State has deemed eligible, based on their personal risk factors, can currently receive a vaccine. Eligibility to receive a vaccine may depend upon a person's occupation, age, health conditions and place of residence. To date, most State residents eligible to receive a vaccine

are those who are [70] and older, who live in a long-term care facility or who are considered essential workers. It is unknown at this time when the COVID-19 vaccines will be available to all residents within the State, including the City, and, when available, how many residents will choose to receive a vaccine.

The Issuer and the City are unable to predict: (i) the extent or duration of the COVID-19 outbreak, any recurrence thereof or any other epidemic or pandemic; (ii) the extent or duration of existing or additional quarantines, closures, restrictions or other measures relating to COVID-19 or any other epidemic or pandemic and how any such measures could affect the construction of or operations at the Project or activities within the TDZ; (iii) whether and to what extent the COVID-19 outbreak or any other epidemic or pandemic may disrupt the local or global economy, manufacturing or the supply chain or whether any such disruption may adversely affect the operations of the City, generally, or within the TDZ or the Project, in particular; (iv) the impact of, or the timing of distribution of, the COVID-19 vaccines; or (v) when and if tourism within the City will return to its pre-COVID-19 levels. Given the evolving nature of the spread of the virus and the behavior of governments, businesses and individuals in response thereto, the City cannot accurately predict the magnitude of the impact of COVID-19 on the operations and financial condition of the City, the Project or the TDZ. The City is proactively taking steps to mitigate the spread of COVID-19 within the City, including but not limited to the above-mentioned distribution of COVID-19 vaccines to eligible residents.

*Impact on Tourism, Sports and Entertainment Venues, the Project and TDZ Revenues.* As provided above, the COVID-19 pandemic and the social-distancing measures taken to mitigate its spread have resulted in decreased travel generally throughout the United States, including the City, and, from time to time, the closure of or operating restrictions for various retail establishments, tourist attractions, sporting and events centers and other facilities that host large-scale gatherings. As provided herein, the Project includes facilities that are designed to host sporting events and other large-scale gatherings and also includes various types of retail establishments. During the COVID-19 pandemic or any other pandemic or epidemic, all or a portion of the Project may not be able to open or operate at full capacity, from time to time, for public safety reasons. The COVID-19 pandemic may also affect the construction timeline of the Project, though no delays are currently contemplated. If the Project is unable to open on schedule or remain open and operate at full capacity, TDZ Revenues would be adversely affected.

See "APPENDIX B – SALES TAX IMPACT ANALYSIS FOR THE MEMPHIS SPORTS & EVENTS CENTER AND TDZ" for more information regarding projected TDZ Revenues and, in particular, the COVID-19 Assumptive Model. As provided herein, any projections may differ significantly from actual results.

*Impact on Non-Property Tax Revenues.* As the pandemic has restricted commercial activity throughout the City, including but not limited to activity related to retail, tourism and entertainment, City revenues from sales taxes, hotel/motel taxes, licenses and permits, and charges for services all decreased at the onset of the pandemic. Though no assurances can be made as to future revenues, state and local sales tax revenues currently appear to be rebounding. State and local sales tax revenues collected by the City from [June 2020 through December 2020] were [ ]% [higher] than such sales tax revenues collected by the City during this same period in [2019]. The latest state and local sales tax revenue numbers available for the month of [ ]



2021] show a year-over-year increase of [ ]%. Though not a major source of City revenue, hotel/motel taxes (including the bed tax) for the City from [June 2020 through December 2020] were [ ]% lower than such revenues collected by the City during the same period in [2019]. City revenues from fines and forfeitures from [June 2020 through December 2020] were [ ]% lower than the amount collected by the City during the same period in [2019], due to the initial suspension of court in response to COVID-19. Court has since resumed. The year-over-year revenue comparisons presented above include amounts that are unadjusted and unaudited. See "SECURITY AND SOURCES OF PAYMENT – Non-Property Tax Revenues – Historical Collection of Non-Property Tax Revenues" herein for more information on the collection of Non-Property Tax Revenues for the six-month period ended December 31, 2020 (unaudited). Though no future assurances may be made, the City has not experienced, to date, any significant delays in the collection of Non-Property Tax Revenues as a result of the COVID-19 pandemic.

As provided herein, the City is liable, both contingently and unconditionally, for the payment of certain obligations incurred to finance or incentivize capital improvements within the City, including certain of the City's sports, entertainment and tourist venues. These obligations are generally primarily payable from revenues of certain sales and tourism-related taxes and fees, which revenues have been and are expected to continue to be significantly affected by the restriction of commercial and social activity resulting from the pandemic. As the revenues from these taxes and fees decrease, it becomes more likely that the City may be required to use its Non-Property Tax Revenues to support these payment obligations. See "SECURITY AND SOURCES OF PAYMENT – Non-Property Tax Revenues, – Contingent Obligations and – Unconditional Obligations" herein for a description of these contingent and unconditional obligations, the payment streams therefor and the City's obligations in connection therewith.

The City has received approximately [\$113.6 million] in relief funds from the federal government in the effort to mitigate the overall fiscal impact to the City as a result of the COVID-19 pandemic. The City has used these relief funds to cover unbudgeted City costs caused by the pandemic as well as to provide economic relief for organizations, businesses and individuals within the City. It is unknown at this time whether the City will receive additional funds from either the State or the federal government.

Though no guarantees can be offered, the Issuer and the City expect to be able to make timely debt service payments on the Series 2021 Bonds if unexpected changes to TDZ Revenues or Non-Property Tax Revenues occur. See "SECURITY AND SOURCES OF PAYMENT – Debt Service Reserve Fund – Temporary Debt Service Reserve Requirement for the Series 2021 Bonds" herein for more information regarding the Series 2021 Bonds Debt Service Reserve Account and the temporary Debt Service Reserve Requirement for the Series 2021 Bonds.

COVID-19 developments, and the responses of governments, businesses and individuals thereto, are rapidly changing and cannot be predicted with any assurance.

## TAX MATTERS

### Series 2021 Bonds – Federal Tax Consequences

The following is a summary of certain material federal income tax consequences of the purchase, ownership and disposition of the Series 2021 Bonds for the investors described below and is based on the advice of Co- Bond Counsel. This summary is based upon laws, regulations, rulings and decisions currently in effect, all of which are subject to change. The discussion does not deal with all federal tax consequences applicable to all categories of investors, some of which may be subject to special rules, including but not limited to, partnerships or entities treated as partnerships for federal income tax purposes, pension plans and foreign investors, except as otherwise indicated. In addition, this summary is generally limited to investors that are “U.S. holders” (as defined below) who will hold the Series 2021 Bonds as “capital assets” (generally, property held for investment) within the meaning of Section 1221 of the Code. Investors should consult their own tax advisors to determine the federal, state, local and other tax consequences of the purchase, ownership and disposition of Series 2021 Bonds. Prospective investors should note that no rulings have been or will be sought from the Internal Revenue Service (the “Service”) with respect to any of the federal income tax consequences discussed below, and no assurance can be given that the Service will not take contrary positions.

As used herein, a “U.S. holder” is a “U.S. person” that is beneficial owner of a Series 2021 Bond. A “non-U.S. holder” is a holder (or beneficial owner) of a Series 2021 Bond that is not a U.S. person. For these purposes, a “U.S. Person” is a citizen or resident of the United States, a corporation or partnership created or organized in or under the laws of the United States or any political subdivision thereof (except, in the case of a partnership, to the extent otherwise provided in the federal tax regulations), an estate the income of which is subject to United States federal income taxation regardless of its source or a trust if (a) a United States court is able to exercise primary supervision over the trust’s administration and (b) one or more United States persons have the authority to control all of the trust’s substantial decisions.

*In General.* Although the Series 2021 Bonds are issued by the Issuer, interest on the Series 2021 Bonds (including original issue discount treated as interest, if any) is not excludable from gross income for federal income tax purposes under Section 103 of the Code. Interest on the Series 2021 Bonds (including original issue discount treated as interest, if any) will be fully subject to federal income taxation. Thus, owners of the Series 2021 Bonds generally must include interest (including original issue discount treated as interest, if any) on the Series 2021 Bonds in gross income for federal income tax purposes.

To ensure compliance with Treasury Circular 230, owners of the Series 2021 Bonds should be aware and are hereby put on notice that: (a) the discussion in this Official Statement with respect to U.S. federal income tax consequences of owning the Series 2021 Bonds is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer; (b) such discussion was written in connection with the promotion or marketing (within the meaning of Treasury Circular 230) of the transactions or matters addressed by such discussion; and (c) each taxpayer should seek advice based on its particular circumstances from an independent tax advisor.

*Taxation of Interest Income of the Series 2021 Bonds.* Payments of interest with regard to the Series 2021 Bonds will be includible as ordinary income when received or accrued by the owners thereof in accordance with their respective methods of accounting and applicable provisions of the Code. If the Series 2021 Bonds are deemed to be issued with original issue discount, Section 1272 of the Code requires the current ratable inclusion in income of original issue discount greater than a specified de minimis amount using a constant yield method of accounting. In general, original issue discount is calculated, with regard to any accrual period, by applying the instrument's yield to its adjusted issue price at the beginning of the accrual period, reduced by any qualified stated interest (as defined in the Code) allocable to the period. The aggregate original issue discount allocable to an accrual period is allocated to each day included in such period. The owner of a debt instrument must include in income the sum of the daily portions of original issue discount attributable to the number of days the owner owned the instrument. The legislative history of the original issue discount provisions indicates that the calculation and accrual of original issue discount should be based on the prepayment assumptions used by the parties in pricing the transaction.

Payments of interest received with respect to the Series 2021 Bonds will also constitute investment income for purposes of certain limitations of the Code concerning the deductibility of investment interest expense. Potential owners of the Series 2021 Bonds should consult their own tax advisors concerning the treatment of interest payments with regard to the Series 2021 Bonds.

A purchaser (other than a person who purchases a Series 2021 Bond upon issuance at the issue price) who buys a Series 2021 Bond at a discount from its principal amount (or its adjusted issue price if issued with original issue discount greater than a specified de minimis amount) will be subject to the market discount rules of the Code. In general, the market discount rules of the Code treat principal payments and gain on disposition of a debt instrument as ordinary income to the extent of accrued market discount. Each potential investor should consult his tax advisor concerning the application of the market discount rules to the Series 2021 Bonds.

*Sale or Exchange of the Series 2021 Bonds.* If an owner sells a Series 2021 Bond, such person will recognize gain or loss equal to the difference between the amount realized on such sale and the owner's basis in such Series 2021 Bond. Ordinarily, such gain or loss will be treated as a capital gain or loss. If the terms of a Series 2021 Bond were materially modified, in certain circumstances, a new debt obligation would be deemed created and exchanged for the prior obligation in a taxable transaction. Among the modifications which may be treated as material are those which relate to redemption provisions and, in the case of a nonrecourse obligation, those which involve the substitution of collateral. Each potential owner of a Series 2021 Bond should consult its own tax advisor concerning the circumstances in which the Series 2021 Bonds would be deemed reissued and the likely effects, if any, of such reissuance. The legal defeasance of the Series 2021 Bonds may result in a deemed sale or exchange of such Series 2021 Bonds under certain circumstances. Owners of such Series 2021 Bonds should consult their tax advisors as to the federal income tax consequences of such a defeasance.

*Backup Withholding.* Certain purchasers may be subject to backup withholding at the application rate determined by statute with respect to interest paid with respect to the Series 2021 Bonds if the purchasers, upon issuance, fail to supply their taxpayer identification numbers, furnish incorrect taxpayer identification numbers, fail to report interest, dividends or other "reportable

payments" (as defined in the Code) properly, or, under certain circumstances, fail to provide a certified statement, under penalty of perjury, that they are not subject to backup withholding.

*Tax Treatment of Original Issue Discount.* The Series 2021 Bonds that have an original yield above their interest rate, as shown on the inside cover page of this Official Statement, are being sold at a discount (the "Discounted Obligations"). The difference between the initial public offering prices, as set forth on the inside cover hereof, of the Discounted Obligations and their stated amounts to be paid at maturity, constitutes original issue discount treated in the same manner for federal income tax purposes as interest, as described above.

In the case of an owner of a Discounted Obligation, the amount of original issue discount which is treated as having accrued with respect to such Discounted Obligation is added to the cost basis of the owner in determining, for federal income tax purposes, gain or loss upon disposition of a Discounted Obligation (including its sale, redemption or payment at maturity). Amounts received upon disposition of a Discounted Obligation which are attributable to accrued original issue discount will be treated as taxable interest, rather than as taxable gain, for federal income tax purposes.

Original issue discount is treated as compounding semiannually, at a rate determined by reference to the yield to maturity of each individual Discounted Obligation, on days which are determined by reference to the maturity date of such Discounted Obligation. The amount treated as original issue discount on a Discounted Obligation for a particular semiannual accrual period is equal to (a) the product of (i) the yield to maturity for such Discounted Obligation (determined by compounding at the close of each accrual period) and (ii) the amount which would have been the tax basis of such Discounted Obligation at the beginning of the particular accrual period if held by the original purchaser, (b) less the amount of any interest payable for such Discounted Obligation during the accrual period. The tax basis is determined by adding to the initial public offering price on such Discounted Obligation the sum of the amounts which have been treated as original issue discount for such purposes during all prior periods. If a Discounted Obligation is sold between semiannual compounding dates, original issue discount which would have been accrued for that semiannual compounding period for federal income tax purposes is to be apportioned in equal amounts among the days in such compounding period.

The Code contains additional provisions relating to the accrual of original issue discount in the case of owners of a Discounted Obligation who purchase such Discounted Obligations after the initial offering. Owners of Discounted Obligations including purchasers of the Discounted Obligations in the secondary market should consult their own tax advisors with respect to the determination for federal income tax purposes of original issue discount accrued with respect to such obligations as of any date and with respect to the state and local tax consequences of owning a Discounted Obligation.

*Tax Treatment of Bond Premium.* The Series 2021 Bonds that have an original yield below their interest rate, as shown on the inside cover page of this Official Statement, are being sold at a premium (collectively, the "Premium Obligations"). An amount equal to the excess of the issue price of a Premium Obligation over its stated redemption price at maturity constitutes premium on such Premium Obligation. An initial purchaser of such Premium Obligation must amortize any premium over such Premium Obligation's term using constant yield principles, based on the

purchaser's yield to maturity (or, in the case of Premium Obligations callable prior to their maturity, by amortizing the premium to the call date, based upon the purchaser's yield to the call date and giving effect to any call premium). As premium is amortized, it offsets the interest allocable to the corresponding payment period and the purchaser's basis in such Premium Obligation is reduced by a corresponding amount resulting in an increase in the gain (or decrease in the loss) to be recognized for federal income tax purposes upon a sale or disposition of such Premium Obligation prior to its maturity. Even though the purchaser's basis may be reduced, no federal income tax deduction is allowed. The same treatment is afforded to the Premium Obligations purchased at a premium in the secondary market. Purchasers of Premium Obligations should consult with their own tax advisors with respect to the determination and treatment of amortizable premium for federal income tax purposes and with respect to the state and local tax consequences of owning such Premium Obligations.

*State, Local or Foreign Taxation.* No representations are made regarding the tax consequences of purchase, ownership or disposition of the Series 2021 Bonds under the tax laws of any state, locality or foreign jurisdiction (except as provided in "State of Tennessee Taxes"). Investors considering an investment in the Series 2021 Bonds should consult their own tax advisors regarding such tax consequences.

*Tax-Exempt Investors.* In general, an entity which is exempt from federal income tax under the provisions of Section 501 of the Code is subject to tax on its unrelated business taxable income. An unrelated trade or business is any trade or business which is not substantially related to the purpose which forms the basis for such entity's exemption. However, under the provisions of Section 512 of the Code, interest may be excluded from the calculation of unrelated business taxable income unless the obligation which gave rise to such interest is subject to acquisition indebtedness. Therefore, except to the extent any owner of a Series 2021 Bond incurs acquisition indebtedness with respect to a Series 2021 Bond, interest paid or accrued with respect to such owner may be excluded by such tax-exempt owner from the calculation of unrelated business taxable income. Each potential tax-exempt owner of a Series 2021 Bond is urged to consult its own tax advisor regarding the application of these provisions.

### **State of Tennessee Taxes**

Co-Bond Counsel also are of the opinion that, under existing law, the Series 2021 Bonds and the income therefrom are exempt from all present state, county and municipal taxes in Tennessee except (a) inheritance, transfer and estate taxes, (b) Tennessee excise taxes on all or a portion of the interest on the Series 2021 Bonds during the period the Series 2021 Bonds are held or beneficially owned by any organization or entity other than a sole proprietorship or general partnership, doing business in the State of Tennessee, and (c) Tennessee franchise taxes by reason of the inclusion of the book value of the Series 2021 Bonds in the Tennessee franchise tax base of any organization or entity, other than a sole proprietorship or general partnership, doing business in the State of Tennessee. Ownership of the Series 2021 Bonds or interest thereon may be subject to state or local taxation in jurisdictions other than the State of Tennessee under applicable state or local laws, as to which Co-Bond Counsel express no opinion. Each prospective investor and purchaser of the Series 2021 Bonds should consult its, his or her own tax advisor regarding the status of the interest on the Series 2021 Bonds in a particular state or local jurisdiction other than Tennessee.

## **Changes in Federal and State Tax Law**

From time to time, there are legislative proposals in the Congress and in the states that, if enacted, could alter or amend the federal and state tax matters referred to under this heading "TAX MATTERS" or adversely affect the market value of the Series 2021 Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether if enacted it would apply to bonds issued prior to enactment. In addition, regulatory actions are from time to time announced or proposed and litigation is threatened or commenced which, if implemented or concluded in a particular manner, could adversely affect the market value of the Series 2021 Bonds. It cannot be predicted whether any such regulatory action will be implemented, how any particular litigation or judicial action will be resolved, or whether the Series 2021 Bonds or the market value thereof would be impacted thereby. Purchasers of the Series 2021 Bonds should consult their tax advisors regarding any pending or proposed legislation, regulatory initiatives or litigation. The opinions expressed by Co-Bond Counsel are based on existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of issuance and delivery of the Series 2021 Bonds, and Co-Bond Counsel has expressed no opinion as of any date subsequent thereto or with respect to any pending legislation, regulatory initiatives or litigation.

PROSPECTIVE PURCHASERS OF THE SERIES 2021 BONDS ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS PRIOR TO ANY PURCHASE OF THE SERIES 2021 BONDS AS TO THE IMPACT OF THE CODE UPON THEIR ACQUISITION, HOLDING OR DISPOSITION OF THE SERIES 2021 BONDS.

## **LITIGATION**

### **The Issuer**

There is no known pending or, to the knowledge of the Issuer, threatened litigation against the Issuer which restrains or enjoins the issuance or delivery of the Series 2021 Bonds, the execution, delivery or performance of the Indenture or the Loan Agreement, or the use of the proceeds of the Series 2021 Bonds or which questions or contests the validity of the Series 2021 Bonds, the Indenture or the Loan Agreement or the proceedings and authority under which they are to be issued, executed and delivered. Neither the creation, organization, nor existence of the Issuer, nor the title of the present board members or other officials of the Issuer to their respective offices, is being currently contested or questioned to the knowledge of the Issuer.

### **The City**

A discussion of litigation in which the City is involved which could potentially have a material impact on the City is set forth below.

*PILOT Payments Litigation.* The County has filed two lawsuits against the City, claiming that approximately \$55 million of electric and gas payments in lieu of taxes made by MLGW and collected by the City should have been paid to the County instead. Many of the County's claims were rejected by the Court in a prior suit between the City and the County. The City also disputes the County's interpretation and application of applicable law. As a result, the City believes that the amounts due to the County under these lawsuits, if any, will be significantly less than initially

claimed by the County. In any event, the City does not expect that any such amounts will materially affect the financial condition of the City.

*BellSouth Litigation.* AT&T (formerly known as BellSouth Telecommunications, Inc.) sued the City in 2000 to recover alleged excessive telecommunications franchise fees. Tennessee courts have ruled that approximately \$35,000,000 (with interest since 2000), is payable by the City to BellSouth (the "BellSouth Payment"), net of any City right-of way costs properly allocable to BellSouth (the "ROW Compensation"). To the extent the ROW Compensation due from BellSouth is greater than the BellSouth Payment, BellSouth will have to pay the difference. To the extent the ROW Compensation is less than the BellSouth Payment, the City will have to refund the difference to BellSouth. The City has performed a cost allocation study to determine the amount of the ROW Compensation. The City believes that the ROW Compensation from BellSouth will be significant, and that any amounts ultimately due to BellSouth will not materially affect the financial condition of the City.

*City Pension Litigation.* In order to comply with the Public Employee Defined Benefit Act's requirements to improve the financial security and actuarial soundness of the City's Retirement Plans, the City Council adopted Ordinance No. 5573 (the "Pension Ordinance") on December 16, 2014.

On November 12, 2015, six of the non-vested employees who were transferred to the 2016 Plan on July 1, 2016, filed an action in Tennessee state court on behalf of themselves and others who are similarly situated, claiming the Pension Ordinance is invalid because it violates Tennessee law as interpreted by the Tennessee Supreme Court. Specifically, Plaintiffs claim that the transfer of certain non-vested employees to the 2016 Plan, which is a hybrid plan consisting of a market based cash balance plan and a 401(a) defined contribution plan, was not reasonable or necessary to protect or enhance the actuarial soundness of the City's defined benefit pension plan and therefore the transfer of non-vested employees to the 2016 Plan will violate their rights. On June 20, 2016, the trial court denied Plaintiffs' application for a temporary injunction pending a trial on the merits. The City intends to vigorously defend this lawsuit, since the adoption of the Pension Ordinance was adopted upon the express finding of the City's governing body that the creation of the 2016 Plan will protect and enhance the actuarial soundness and ensure the long-term viability of the City Retirement System and the immutable rights of vested participants. Moreover, the Pension Ordinance is one of a series of actions taken by the City to satisfy the State's stated policy of improving the financial security of public defined benefit pension plans by requiring that the unfunded accrued liability of such plans be eliminated no later than June 15, 2020.

*City Employee Other Post-Employment Benefits (OPEB) Plan Litigation.* On November 12, 2015, four participants in the OPEB Plan filed a putative class action in Tennessee State Court for themselves and others similarly situated seeking to enjoin the City's changes to the OPEB Plan. Although the suit is still pending, the trial judge has denied Plaintiff's request for a temporary injunction and has denied Plaintiff's request to certify the case as a class action. The Court concluded that Plaintiffs are unlikely to succeed on the merits of their claims, since they have not shown any contractual vested rights to lifetime health insurance subsidies. The City believes that it will successfully defend this action.

Other Litigation. The City is a defendant in various other lawsuits arising in the ordinary course of operations. Although the outcome of these lawsuits is not presently determinable, it is the opinion of the administration of the City and the Chief Legal Officer/City Attorney that the ultimate disposition of these matters will not materially affect the financial condition of the City. Under the Tennessee Governmental Tort Liability Act, §§ 29-20-101 through 29-20-408 of the Tennessee Code Annotated (the "Governmental Tort Act"), all governmental entities in Tennessee are immune from suit for any injury which may result from the activities of such governmental entities when engaged in the exercise and discharge of any function, except within the limits provided in the Governmental Tort Act. Pursuant to the Governmental Tort Act, there are limits for liability for governmental entities for bodily injury or death of any one person in any one accident, occurrence or act, unless and to the extent insurance is provided. The City is self-insured within these limits and all such claims are budgeted and paid from annual operating revenues of the City.

### CONTINUING DISCLOSURE

The Issuer has determined that no financial or operating data concerning the Issuer is material to any decision to purchase, hold or sell the Series 2021 Bonds and the Issuer will not provide any such information. The City will undertake all responsibility for providing continuing disclosure with respect to the Series 2021 Bonds and the Issuer will have no liability to the Holders of the Series 2021 Bonds or any other person with respect to the obligations undertaken by the City under the Disclosure Agreement.

In order to assist the Underwriter in complying with Rule, simultaneously with the issuance of the Series 2021 Bonds, the City will enter into the Disclosure Agreement for the benefit of the Holders of the Series 2021 Bonds, substantially in the form attached hereto as "APPENDIX C - FORM OF CONTINUING DISCLOSURE AGREEMENT." The City, as an "obligated person" under the Rule, will undertake in the Disclosure Agreement to provide: (a) certain financial information and operating data relating to the Series 2021 Bonds in each year (the "Annual Report"); and (b) notice of the occurrence of certain enumerated events (each a "Listed Event Notice"). The Annual Report and each Listed Event Notice, if applicable, will be filed by DAC, on behalf of the City, on EMMA, a service of the MSRB. The specific nature and timing of filing the Annual Report and each Listed Event Notice, and other details of the City's undertakings, are more fully described in "APPENDIX C - FORM OF CONTINUING DISCLOSURE AGREEMENT" attached hereto.

The following disclosure is being provided by the City for the sole purpose of assisting the Underwriter in complying with the Rule:

The City previously entered into continuing disclosure undertakings with its underwriters, as an "obligated person" under the Rule (the "Undertakings"). In the period beginning five years prior to the date of this Official Statement to the dated date of this Official Statement (the "Compliance Period"), the City has, on several instances during the Compliance Period, failed to comply, in all material respects, with certain provisions of the Undertakings, including: (a) failing to provide certain required annual financial information in its annual filings; and (b) failing to file or timely file certain notices, including event notices relating to rating changes, notices of



defeasance and notices of failures to submit required annual financial information before the date specified in the Undertakings. Pursuant to the hereinafter defined Order, the City posted on EMMA that certain Corrective and Voluntary Notice Regarding Certain Annual Financial Information in the Annual Filings and Notices, dated as of May 12, 2017 (the "Corrective Notice"), in order to update and provide notice of all past continuing disclosure delinquencies described above.

The following disclosure is being provided by the City for the sole purpose of complying with the hereinafter defined Order:

In March 2014, the SEC announced its Municipal Continuing Disclosure Cooperation (MCDC) Initiative, a voluntary self-reporting program, intended to address potentially widespread violations by municipal issuers and underwriters of the federal securities laws relating to continuing disclosure compliance reporting in municipal bond offering documents. The MCDC Initiative offered favorable settlement terms to issuers that self-report securities law violations, relating to material misstatements or omissions in bond documents about compliance with an issuer's prior undertakings as to continuing disclosure. After a review of its compliance record, as noted above, in November 2014, the City determined to self-report to the SEC by submitting an MCDC Questionnaire. On February 22, 2016, following discussion with the SEC staff, the City filed an Offer of Settlement.

On August 24, 2016, the SEC entered an Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing Remedial Sanctions and A Cease-and-Desist Order (the "Order"). The Order contains no monetary penalties, but orders the City to cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) of the Securities Act of 1933 and orders the City to comply with the following undertakings:

- (a) Establish appropriate written policies and procedures and periodic training regarding continuing disclosure obligations to effect compliance with the federal securities laws, including the designation of an individual or officer responsible for ensuring compliance with such policies and procedures and responsible for implementing and maintaining a record (including attendance) of such training;
- (b) Comply with existing continuing disclosure undertakings, including updating past delinquent filings if the City is not currently in compliance with its continuing disclosure obligations;
- (c) Disclose in a clear and conspicuous fashion the terms of the settlement in any final official statement for an offering by the City within five years from the date of the Order;
- (d) Certify, in writing, compliance with the undertakings set forth above; and
- (e) Cooperate with any subsequent investigation by the SEC regarding the false statements or material omissions, including the roles of individuals or other parties involved.

The City has undertaken all measures necessary to comply with the Order. Since the date of the Order, the City believes that it has complied, in all material respects, with its Undertakings, except that the City did not timely file certain annual financial information relating to the City's sewer collection and treatment fund for the Fiscal Year ended June 30, 2017, which failure was disclosed in a notice filed on EMMA by the City on December 27, 2017.

## **LEGAL MATTERS**

Certain legal matters incident to the authorization, issuance, validity, sale and delivery of the Series 2021 Bonds are subject to the approving opinions of Carpenter Law, PLLC, Memphis, Tennessee, and Butler Snow LLP, Memphis Tennessee, as Co-Bond Counsel, whose approving opinion, in substantially the form attached hereto as "APPENDIX D - FORM OF OPINIONS OF CO-BOND COUNSEL," will be delivered concurrently with the issuance of the Series 2021 Bonds. No representation is made to the Holders of the Series 2021 Bonds that Co-Bond Counsel has verified the accuracy, completeness or fairness of the statements in this Official Statement and Co-Bond Counsel assumes no responsibility to the Holders of the Series 2021 Bonds except for the matters that will be set forth in their approving opinion.

Certain legal matters will be passed upon for the Issuer by Farris Bobango, PLC, Memphis, Tennessee, Certain legal matters will be passed upon for the City by Jennifer Sink, Chief Legal Officer / City Attorney. In addition, certain legal matters will be passed upon for the City by Bass Berry & Sims PLC, Nashville, Tennessee, and Bruce Turner, PLLC, Memphis, Tennessee, Co-Disclosure Counsel to the City. Certain legal matters will be passed upon for the Underwriters by their counsel, Ahmad Zaffarese LLC, Memphis, Tennessee.

The legal opinions to be delivered concurrently with the delivery of the Series 2021 Bonds express the professional judgment of the attorneys rendering the opinions regarding the legal issues expressly addressed therein. By rendering legal opinions, the attorneys providing such opinions do not become insurers or guarantors of the result indicated by that expression of professional judgment with respect to the transaction on which the opinions are rendered or of the future performance of parties to the transaction. Furthermore, the rendering of an opinion does not guarantee the outcome of any legal dispute that may arise out of the transaction.

## **CO-FINANCIAL ADVISORS**

ComCap Partners, Memphis, Tennessee, and PFM Financial Advisors LLC, Memphis, Tennessee, serve as Co-Financial Advisors to the City for the Series 2021 Bonds. The Co-Financial Advisors assisted in matters related to the planning, structuring and issuance of the Series 2021 Bonds and provided other advice. The Co-Financial Advisors did not engage in any underwriting activities with regard to the issuance and sale of the Series 2021 Bonds.

## RATINGS

Moody's Investors Service, Inc. ("Moody's") and S&P Global Ratings ("S&P," and together with Moody's, the "Rating Agencies") have assigned ratings of ["\_\_\_" (\_\_\_ outlook)] and ["\_\_\_" (\_\_\_ outlook)] respectively, to the Series 2021 Bonds.

The ratings, including any related outlook with respect to potential changes in such ratings, reflect only the respective views of the Rating Agencies, and an explanation of the significance of such ratings may be obtained from the Rating Agencies furnishing the ratings. Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies, and assumptions of its own. There is no assurance that such ratings will remain unchanged for any given period of time or that they will not be revised downward or withdrawn entirely by the rating agency furnishing the same, if, in its judgment, circumstances so warrant. Any such downward revision or withdrawal of such ratings or other actions by the Rating Agencies, or any of them, may have an adverse effect on the liquidity or market price of the affected Series 2021 Bonds. Neither the Issuer nor the City has undertaken any responsibility to oppose any such revision, suspension or withdrawal.

## UNDERWRITING

Raymond James & Associates, Inc. (the "Representative"), on behalf of itself and the other underwriters listed on the cover page of this Official Statement (collectively, the "Underwriters") have agreed jointly and severally, pursuant to a Bond Purchase Agreement between the Representative and the City (the "Bond Purchase Agreement") to purchase the Series 2021 Bonds at an aggregate purchase price of \$\_\_\_\_\_, representing the principal amount of the Series 2021 Bonds of \$\_\_\_\_\_, plus a bond premium of \$\_\_\_\_\_ and minus an underwriters' discount of \$\_\_\_\_\_. The Bond Purchase Agreement provides that the Underwriters' obligations are subject to certain conditions precedent but that the Underwriters will be obligated to purchase all of the Series 2021 Bonds if any Series 2021 Bonds are purchased.

The Underwriters reserve the right to join with dealers and other underwriters in offering the Series 2021 Bonds to the public. The Series 2021 Bonds may be offered and sold to certain dealers (including dealers depositing such Series 2021 Bonds into investment trusts) at prices lower than the public offering prices. Public offering prices may be changed from time to time by the Underwriters.

**[The Underwriters have provided the following information for inclusion in this Official Statement.]**

## FORWARD-LOOKING STATEMENTS

Any statements made in this Official Statement, including in the appendices attached hereto, involving estimates or matters of opinion, whether or not so expressly stated as such, are set forth as estimates or matters of opinion and not as representations of fact. No representation is made that any of the estimates or matters of opinion will be realized.

The statements contained in this Official Statement, including in the appendices attached hereto, that are not purely historical, are forward-looking statements. Readers should not place undue reliance on forward-looking statements. All forward-looking statements included in this Official Statement are based on information available on the date hereof and neither the Issuer nor the City assumes any obligation to update any such forward-looking statement. It is important to note that actual results could differ materially from those in such forward-looking statements.

The forward-looking statements herein are necessarily based on various assumptions and estimates and are inherently subject to various risks and uncertainties, including without limitation: risks and uncertainties relating to the possible invalidity of the underlying assumptions and estimates; possible changes or developments in social, economic, business, industry, market, legal and regulatory circumstances and conditions; and actions taken or omitted to be taken by third parties, including customers, suppliers, business partners, competitors and legislative, judicial and other governmental authorities and officials. Assumptions related to the foregoing involve judgments with respect to, among other things, future economic, competitive and market conditions and future business decisions, all of which are difficult or impossible to predict accurately and many of which are beyond the control of the Issuer or the City. Any of such assumptions could be inaccurate. Therefore, there can be no assurance that the forward-looking statements included in this Official Statement, including in the appendices attached hereto, will prove to be accurate.

#### **MISCELLANEOUS**

The references, excerpts and summaries of all documents referred to in this Official Statement do not purport to be complete statements of the provisions of such documents and reference is directed to all such documents for full and complete statements of all matters of fact relating to the Series 2021 Bonds, the security for and the sources for repayment for the Series 2021 Bonds and the rights and obligations of the Holders. Copies of such documents may be obtained in the manner specified under the heading "INTRODUCTION - Other Information" herein.

The information in this Official Statement, including the appendices attached hereto, has been compiled from official and other sources deemed by the City to be reliable and, while not guaranteed as to completeness or accuracy, is believed by the City to be correct as of the date of this Official Statement.

Use of the words "shall" or "will" in this Official Statement or in summaries of documents to describe future events or continuing obligations is not intended as a representation that such event or obligation will occur but only that the document contemplates or requires such event to occur or obligation to be fulfilled.

Neither this Official Statement nor any statement which may have been made orally or in writing is to be construed as a contract with the owners of the Series 2021 Bonds.

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**AUTHORIZATION OF AND CERTIFICATION  
CONCERNING OFFICIAL STATEMENT**

The execution and delivery of this Official Statement, and its distribution and use by the Underwriters in connection with the original public offer, sale and distribution of the Series 2021 Bonds by the Underwriters, have been duly authorized and approved by the Issuer and the City.

**ECONOMIC DEVELOPMENT GROWTH  
ENGINE INDUSTRIAL DEVELOPMENT  
BOARD OF THE CITY OF MEMPHIS AND  
COUNTY OF SHELBY, TENNESSEE**

By: \_\_\_\_\_  
Reid Dulberger, President

**CITY OF MEMPHIS, TENNESSEE**

By: \_\_\_\_\_  
Jim Strickland, Mayor

## **APPENDIX A**

### **DEFINITIONS OF CERTAIN TERMS AND SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE AND THE LOAN AGREEMENT**

**APPENDIX B**

**SALES TAX IMPACT ANALYSIS FOR  
THE MEMPHIS SPORTS & EVENTS CENTER AND TDZ**



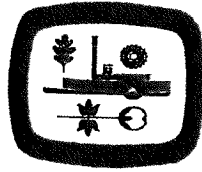
## **APPENDIX C**

### **FORM OF CONTINUING DISCLOSURE AGREEMENT**

## **APPENDIX D**

### **FORM OF OPINIONS OF CO-BOND COUNSEL**

30073007.1



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

A Resolution approving the sale of two city owned parcels known as 0 Washington Ave & 0 Joy Place, Memphis, TN 38104, Parcel ID#s 017017 00001Z and 017017 00011Z respectively.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

General Services

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

This is not a change to an existing ordinance or resolution.

**4. State whether this will impact specific council districts or super districts.**

*(6) per routing sheet*  
Council District 4 and Super district 8

**5. State whether this requires a new contract, or amends an existing contract, if applicable.**

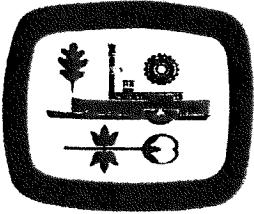
N/A

**6. State whether this requires an expenditure of funds/requires a budget amendment**

This does not require an expenditure of funds nor a budget amendment.

**7. If applicable, please list the MWBE goal and any additional information needed**

N/A



**A Resolution approving the sale of two city owned parcels known as 0 Washington Ave & 0 Joy Place, Memphis, TN 38104, Parcel ID#s 017017 00001Z and 017017 00011Z respectively.**

**WHEREAS**, the City of Memphis owns the properties known as 0 Washington Avenue & 0 Joy Place, Memphis, TN 38104 ("The Properties") and is further identified by the Shelby County Tax Assessor as Parcel ID #s 017017 00001Z containing 0.052 acres and 017017 00011Z containing 0.041 acres, more or less;

**WHEREAS**, the sale of the subject Properties will increase the City's General Fund, generate tax revenue, and eliminate blight and maintenance cost for the City of Memphis;

**WHEREAS**, MIM, LLC, submitted an offer of Six Hundred Dollars (\$600.00) for 0 Washington and Five Hundred Dollars (\$500.00) for 0 Joy Place and submitted an earnest money deposit of ten percent equaling \$110.00; and

**WHEREAS**, <sup>it is</sup> ~~is it~~ deemed to be in the best interest of the citizens of the City of Memphis and County of Shelby that said sale be accepted subject to City Ordinance 5637, Amendment to Section 2-291(A) of the City's Code of Ordinance.

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Memphis that the offer on the above described parcels are hereby accepted subject to the City Ordinance 5637, Amendment to Chapter 2, Article V, Division 2, Section 1, Section 2-291(A)1 which states in part, "properties receiving an initial bid offer of twenty thousand dollars (\$20,000) or less shall be submitted for approval to the City Council for the first reading, which is final."

**BE IT FURTHER RESOLVED**, that subject to the Ordinance, the City of Memphis Real Estate Department shall prepare and arrange for the execution of the quit claim deed, and any other documents incidental to the completion of the transfer, and the Mayor of the City of Memphis is hereby authorized to execute said deeds or any other documents necessary to complete the sale and conveyance.



Sheldandra Y. Ford  
Shelby County Register of Deeds

Owner: MEMPHIS CITY OF  
Parcel Address: 0 WASHINGTON AVE  
Parcel ID: 017017 00001Z  
2021 Appraisal: \$200  
Tax District: MEMPHIS  
Year Built:  
Lot Number:  
Subdivision: MIDTOWN MEMPHIS PD  
Plat BK & PG: 272-034  
Dimensions: 12.76 X 187.50  
Total Acres: 0.052  
Owner Address: 125 N MAIN ST  
MEMPHIS TN  
38103





Sheldandra Y. Ford  
Shelby County Register of Deeds

MEMPHIS CITY OF

Owner:

Parcel Address: 0 JOY PLACE ALY

Parcel ID: 017017 00011Z

2021 Appraisal: \$100

Tax District: MEMPHIS

Year Built:

Lot Number:

Subdivision: MIDTOWN MEMPHIS PD

Plat BK & PG: 272-034

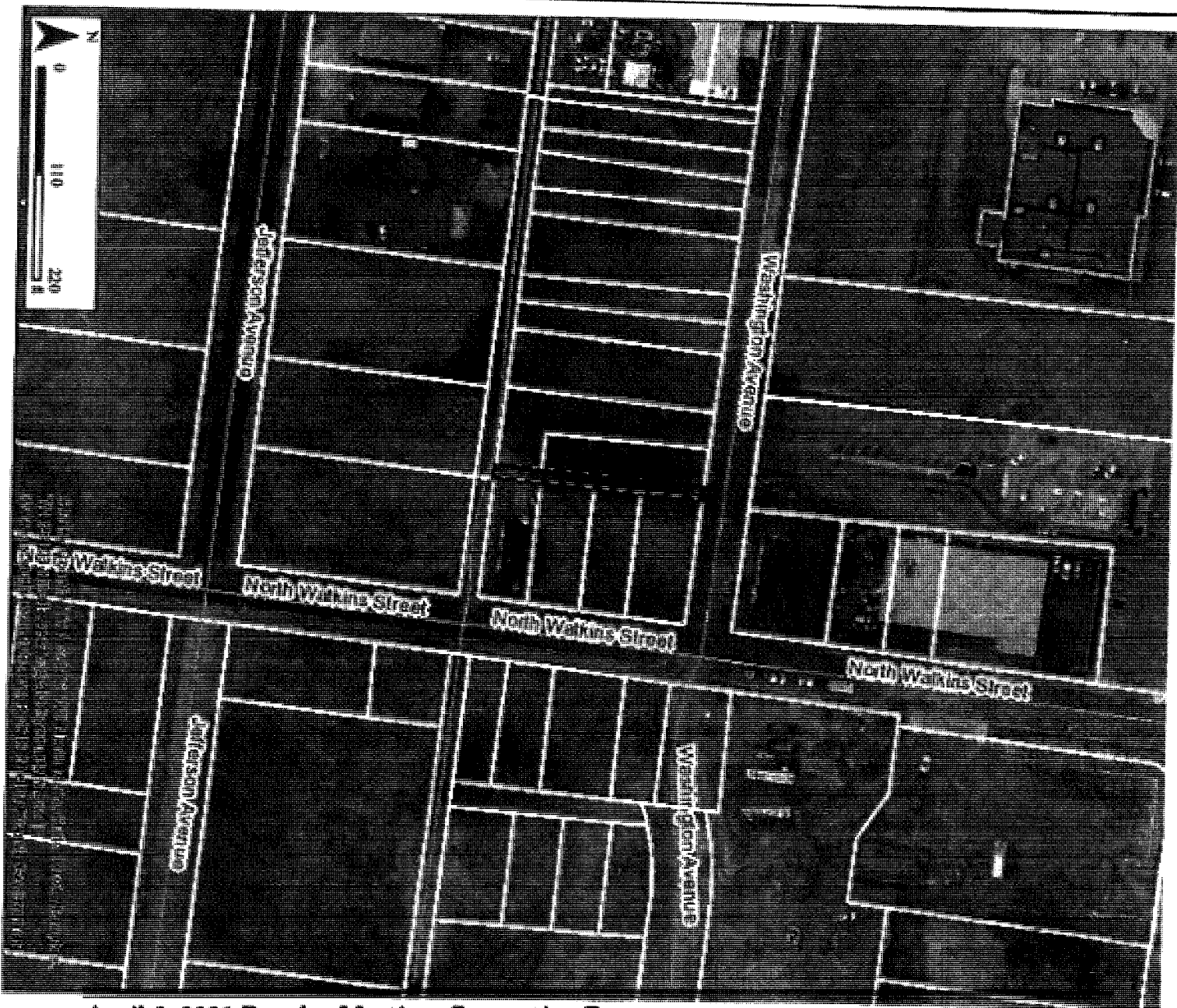
Dimensions: 9.50 X 187.50

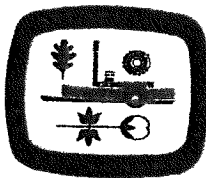
Total Acres: 0.041

Owner Address: 125 N MAIN ST

MEMPHIS TN

38103





## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

A Resolution approving the sale of a city owned property known as 2472 Zanone Avenue Memphis, TN 38114, Parcel ID# 029053 00019

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

General Services

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

N/A

**4. State whether this will impact specific council districts or super districts.**

District 4 and Super District 8

**5. State whether this requires a new contract, or amends an existing contract, if applicable.**

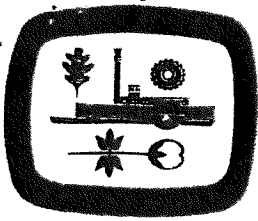
N/A

**6. State whether this requires an expenditure of funds/requires a budget amendment**

N/A

**7. If applicable, please list the MWBE goal and any additional information needed**

N/A



**A Resolution approving the sale of a city owned property known as 2472  
Zanone Avenue Memphis, TN 38114, Parcel ID# 029053 00019**

**WHEREAS**, the City of Memphis owns the property known as 2472 Zanone Avenue, Memphis, TN 38114 ("The Property") and is further identified by Shelby County Tax Assessor as Parcel # 029053 00019 containing 0.119 acres, more or less;

**WHEREAS**, the sale of the subject Parcel will increase the Housing and Community Development's Block Grant Program Fund, generate tax revenue and eliminate blight and maintenance cost for the City of Memphis;

**WHEREAS**, Van Snyder submitted an offer of Two Thousand Two Hundred Fifty Dollars (\$2,250.00) and submitted an earnest money deposit of ten percent equaling \$225.00; and

**WHEREAS**, <sup>it is</sup> ~~is~~ deemed to be in the best interest of the citizens of the City of Memphis and County of Shelby that said sale be accepted subject to City Ordinance 5637, Amendment to Section 2-291(A) of the City's Code of Ordinance.

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Memphis that the offer made by Van Snyder, on the above described parcel is hereby accepted subject to the City Ordinance 5637, Amendment to Chapter 2, Article V, Division 2, Section 1, Section 2-291(A)1 which states in part, "properties receiving an initial bid offer of twenty thousand dollars (\$20,000) or less shall be submitted for approval to the City Council for the first reading, which is final."

**BE IT FURTHER RESOLVED**, that subject to the Ordinance, the City of Memphis Real Estate Department shall prepare and arrange for the execution of the quit claim deed, and any other documents incidental to the completion of the transfer, and the Mayor of the City of Memphis is hereby authorized to execute said deeds or any other documents necessary to complete the sale and conveyance.

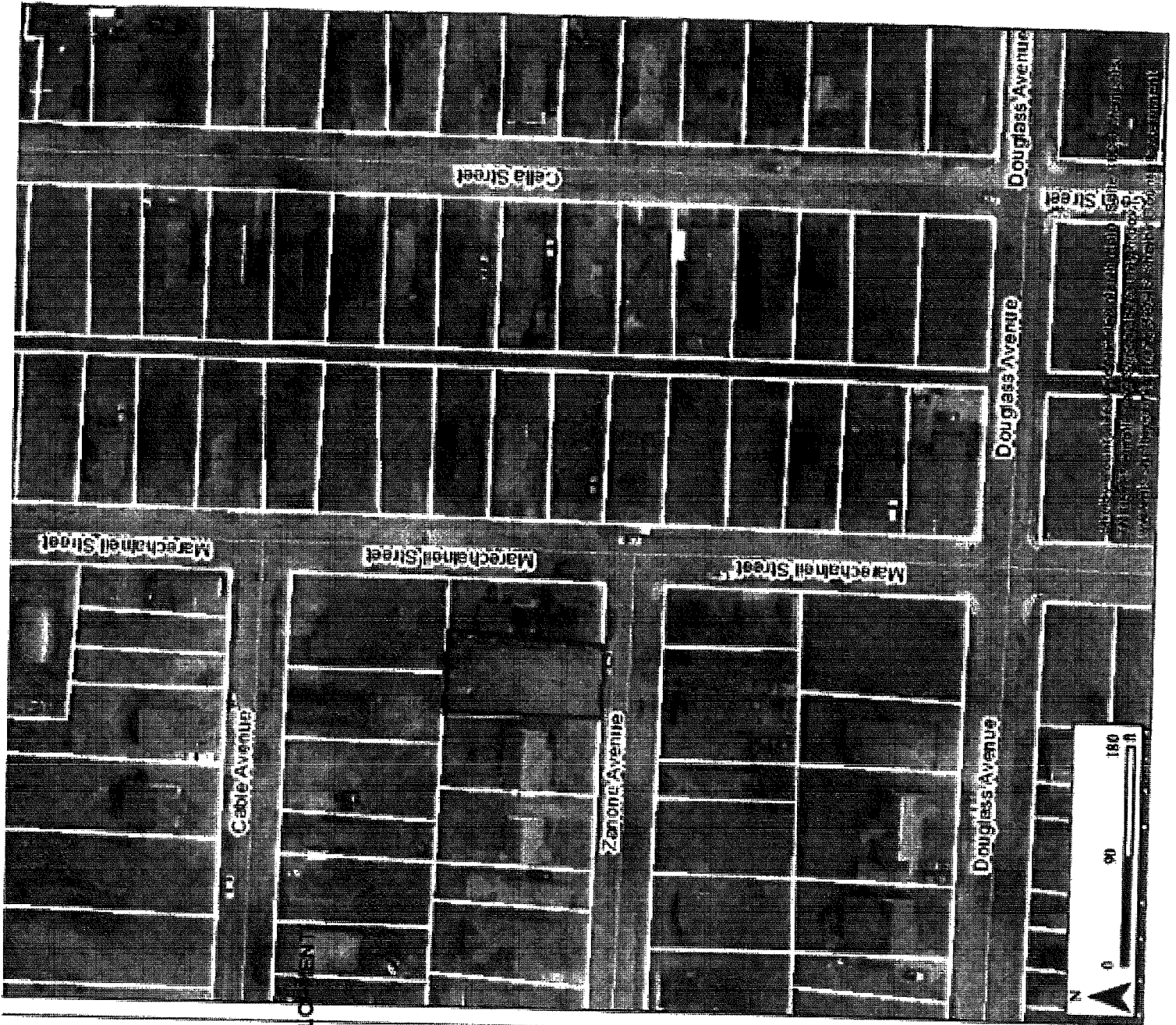


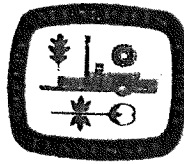


Sheldandra Y. Ford  
Shelby County Register of Deeds

MEMPHIS CITY OF FOR DIVISION  
OF HOUSING AND COMMUNITY DEVELOPMENT

Parcel Address: 2472 ZANONE AVE  
Parcel ID: 029053 00019  
2021 Appraisal: \$3,000  
Tax District: MEMPHIS  
Area Built: 852&amp;853  
Subdivision: ORANGE MOUND  
Lot BK & PG: UNKNOWN  
Dimensions: 50 X 104  
Total Acres: 0.119  
Parcel Address: 701 N MAIN ST  
MEMPHIS TN  
38107 2311

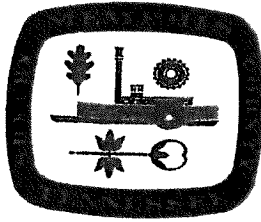




## Memphis City Council Summary Sheet

- 1. Description of the Item (Resolution, Ordinance, etc.)**  
Resolution approving proposed Consolidated Plan, FY2022 Annual Action Plan and appropriating federal entitlement funds to the FY2022 Housing and Community Development Budget.
- 2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**  
The Division of Housing and Community Development
- 3. State whether this is a change to an existing ordinance or resolution, if applicable.**  
  
Not applicable.
- 4. State whether this will impact specific council districts or super districts.**  
Various council districts or super districts may be impacted.
- 5. State whether this requires a new contract, or amends an existing contract, if applicable.**  
New contracts and contract amendments will be required.
- 6. State whether this requires an expenditure of funds/requires a budget amendment.**  
  
Expenditure of funds will be required.
- 7. If applicable, please list the MWBE goal and any additional information needed.**  
Some funding will be applicable to MWBE goals once awarded.

Resolution-Division of Housing and Community Development



**RESOLUTION APPROVING PROPOSED CONSOLIDATED PLAN FY2022 ANNUAL ACTION PLAN AND APPROPRIATING FEDERAL ENTITLEMENT FUNDS TO THE FY2022 HOUSING AND COMMUNITY DEVELOPMENT BUDGET.**

**WHEREAS**, the purpose of the City of Memphis' Consolidated Plan for Housing and Community Development is to foster the development of viable urban neighborhoods which include decent housing for everyone, a suitable living environment, and expanded economic opportunities, especially for low and moderate-income citizens; and

**WHEREAS**, specific projects and activities within the Consolidated Plan/FY 2022 Annual Action Plan address the needs of low and moderate-income persons through goals, objectives, priorities, and strategies for housing, community and public services, assistance for the homeless and special needs populations, neighborhood, economic and community development; and

**WHEREAS**, projects and activities proposed to be implemented in the Consolidated Plan/FY 2022 Annual Action Plan will draw upon and augment the resources of the public, private, and nonprofit sectors to meet low and moderate income needs in the community; and

**WHEREAS**, the plan contains a description of anticipated federal, state, and local housing resources for FY 2022, including Community Development Block Grant (CDBG) funds received under Title I of the Housing and Community Development Act of 1974, HOME funds received under Title II of the National Affordable Housing Act of 1990, Emergency Solutions Grant (ESG) funds authorized under the HEARTH Act of 2009, and Housing Opportunities for Person With AIDS (HOPWA) funds, as shown in the following tables:

**Estimated FY 2022 Funds to be received from HUD**

<b>Program Name</b>	<b>Estimated Funds</b>	<b>Percent of Total</b>
CDBG Program	\$ 6,778,757	42%
Projected CDBG Program Income	\$ 603,924	4%
HOME Program	\$ 3,737,532	23%
Projected HOME Program Income	\$ 50,000	0.3%
Bass Pro-PI	\$ 750,000	5%
ESG Program	\$ 575,820	4%
HOPWA	\$ 3,487,830	22%
<b>TOTAL</b>	<b>\$ 15,983,863</b>	<b>100%</b>

;and

Resolution-Division of Housing and Community Development

**WHEREAS**, the plan identifies and describes the following priority areas of projects and activities to be implemented in FY 2022 by the federal entitlement funds received from the U.S Department of Housing and Urban Development (HUD):

FY 2022 Priority Areas		
Priority Need Category	Proposed Expenditures	Percentages
Housing	\$ 6,111,931	38%
Homeless	\$ 885,134	6%
Special Needs	\$ 3,498,695	22%
Neighborhood, Economic & Community Development	\$ 3,423,901	21%
General Administration & Planning	\$ 2,064,203	13%
<b>TOTAL</b>	<b>\$ 15,983,863</b>	<b>100%</b>

and,

**WHEREAS**, the Consolidated Plan/FY 2022 Annual Action Plan includes and was developed within a framework of a citizen participation plan, requiring consultation with citizens and other social service and housing agencies; and

**WHEREAS**, the Consolidated Plan/FY 2022 Annual Action Plan is available for a 30-day public review and comment period ending May 8, 2021, and must be submitted to HUD on or before May 13, 2021, for approval; and

**WHEREAS**, the CDBG entitlement, estimated program income, the HOME, ESG, and HOPWA entitlement grants must be appropriated in the FY 2022 Operating Budget for HCD.

**NOW, THEREFORE, BE IT RESOLVED** that the Council and the City of Memphis hereby adopts and approves the proposed Consolidated Plan/FY 2022 Annual Action Plan.

**BE IT FURTHER RESOLVED** that there be and is hereby accepted and appropriated the amount of \$15,983,863.30 by federal resources for FY 2022, including Community Development Block Grant (CDBG) funds, Projected Program Income from CDBG and HOME, HOME Program funds, Emergency Solutions Grant (ESG) funds, and Housing Opportunities for Person With AIDS (HOPWA) chargeable to the FY 2022 Operating Budget and credited as follows:

Program Name	Estimated Funds	Percent of Total
CDBG Program	\$ 6,778,757	42%
Projected CDBG Program Income	\$ 603,924	4%
HOME Program	\$ 3,737,532	23%
Projected HOME Program Income	\$ 50,000	0.3%
Bass Pro-PI	\$ 750,000	5%
ESG Program	\$ 575,820	4%
HOPWA	\$ 3,487,830	22%
<b>TOTAL</b>	<b>\$ 15,983,863</b>	<b>100%</b>

**BE IT FURTHER RESOLVED** that the Mayor and the Director of HCD are authorized to prepare and execute the necessary documents in connection with the proposed FY 2022 Consolidated Plan - Annual Action Plan to apply for and accept funding which the City is entitled to receive from HUD.

**RESOLUTION TO ACKNOWLEDGE AND ESTABLISH COMMUNITIES THAT ARE IN IMMEDIATE NEED OF BEAUTIFICATION AND BLIGHT REMEDIATION**

**WHEREAS**, we acknowledge that Memphis has struggled in recent years with blighted properties and illegal dumping, which contributes to a decrease in property values, unsanitary conditions, and undesirable eyesores for the entire community; and

**WHEREAS**, we hear legitimate concerns voiced by residents in the North Memphis, South Memphis, and Whitehaven communities and recognize that the significant illegal dumping in these areas contributes to habitual blight, and

**WHEREAS**, the City Council wishes to acknowledge the hard work and dedication to addressing these issues by Steve Shular on behalf of the Mayor's Office and coordinated efforts with Memphis Code Enforcement, Memphis Public Service Corps, Memphis City Beautiful, Division of Solid Waste, and Clean Memphis; and

**WHEREAS**, Memphis once was the winner of the "Nation's Cleanest City" award four years in a row and the City Council wishes to return to our past prominence; and

**WHEREAS**, the City Council wants to increase beautification efforts aimed at cleaning these communities.

**THEREFORE, BE IT RESOLVED** that the Memphis City Council does hereby seek to increase the beautification and blight remediation efforts in North Memphis, South Memphis, and Whitehaven in collaboration with community partners and residents, with the recognition that this list of communities is not exhaustive and that other neighborhoods will be added at a later date.

**BE IT FURTHER RESOLVED** that the Memphis City Council does hereby request that street sweepers and community groups charged with beautifying neighborhoods operate at an increased capacity in the areas of North Memphis, South Memphis, and Whitehaven to help further reduce litter and blight.

**Sponsor:**

JB Smiley, Jr.  
J. Ford Canale  
Chase Carlisle  
Frank Colvett, Jr.  
Michalyn Easter-Thomas  
Edmund Ford, Sr.  
Cheyenne Johnson  
Martavius Jones  
Rhonda Logan  
Patrice Robinson  
Jamita Swearengen  
Dr. Jeff Warren

## **RESOLUTION TO CREATE THE MEMPHIS ACADEMY OF CIVIC ENGAGEMENT**

**WHEREAS**, the Memphis City Council finds it important for citizens to be informed and engaged and for the City of Memphis to maintain transparency; and

**WHEREAS**, the citizens of Memphis have consistently sought information and insight regarding government affairs; and

**WHEREAS**, it is the will of the body to create a program that not only informs but involves the people in the affairs of the City of Memphis; and

**WHEREAS**, the creation of the Memphis Academy of Civic Engagement would meet this need by providing information and transparency to citizens interested in learning more through a structured curriculum designed to educate participants on various sectors of local government; and

**WHEREAS**, the Memphis Academy of Civic Engagement's call to action is "Get Involved, Mane!" and seeks to engage citizens from all areas of the city.

**THEREFORE, BE IT RESOLVED**, that the Memphis City Council does hereby create and implement the Memphis Academy of Civic Engagement as outlined in this resolution.

**BE IT FURTHER RESOLVED**, the Memphis City Council requests that funding in the amount of \$50,000 be included within the Council's Community Impact Fund for Fiscal Year 2022.

### **Program Description**

The Memphis Academy of Civic Engagement is a 7-week course that will educate citizens on various sectors of local government. The program will feature weekly 2-hour meetings covering different topics. Presenters will include leaders in various departments of city government. The program will begin with 2 fall cohorts and 2 winter cohorts. Each cohort will have 30 participants. The topics included in the program curriculum include: infrastructure, neighborhood revitalization, workforce development, and youth, public safety, budgeting, overview of legislative and executive branches of city government, MLGW, and serving Memphis.

### **Application and Selection Process**

There will be an online application available on the City of Memphis website. Citizens ages 18 and over are eligible to participate in the program. Applications will open on July 15, 2021 and close on August 15, 2021. Participants will be notified by September 1, 2021 of their selection for a cohort. The program start dates for the fall and winter cohorts are TBD. A graduation ceremony will take place at the conclusion of the program.

### **Governance**

At a later date, we will bring before this body the 5-member Board of Admissions, who will review the applications and select the cohort participants and the Dean, who will be in charge of facilitating the program.

## MINUTES

### TELEPHONIC MEETING OF MARCH 16, 2021 RECESSED MEETING TO APRIL 6, 2021 MEETING OF THE CITY COUNCIL CITY OF MEMPHIS

**MARCH 16, 2021**

**3:30 P.M. MEETING RECONVENED**

(After the meeting was re-opened for the transaction of business and a quorum was declared present, Councilwoman Swearengen made a motion to adjourn the March 16, 2021 City Council Meeting; this was seconded by Councilman Carlisle, without objection.)

(Chairman Colvett adjourned the March 16, 2021 City Council Meeting being that there wasn't any unfinished business, without objection.)

## CITY OF MEMPHIS NOTICE OF REGULAR MEETING OF THE MEMPHIS CITY COUNCIL Tuesday, March 16, 2021 3:30 p.m.

Due to the declarations of a State of Emergency by the President of the United States, the Governor of Tennessee and the Mayor of Memphis relating to Covid-19 Epidemic the Council has determined that is necessary that the meeting be conducted by electronic or other means of communication in order to protect the health, safety and welfare of the public, City employees, Council staff and Members of the Council.

### THERE WILL BE NO PHYSICAL MEETING

Attached to this Notice of Meeting are instructions on how members of the public may electronically access the meeting and/or a recording of the meeting and how the public may provide written comments concerning any agenda item or any other matter prior to the meeting.

**ADJOURNED MEETING AT 3:31 p.m.**

.....

Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

\_\_\_\_\_  
CHAIRMAN

Attest:

\_\_\_\_\_  
Deputy Comptroller/Council Records



**MINUTES**  
**TELEPHONIC MEETING OF THE CITY COUNCIL**  
**CITY OF MEMPHIS**  
**April 6, 2021**

**3:30 P.M. SCHEDULED SESSION**

**3:31 P.M. MEETING COMMENCED**

**ROLL CALL:** J. Ford Canale, Chase Carlisle, Michalyn Easter-Thomas, Edmund Ford, Sr., Cheyenne Johnson, Martavius Jones, Rhonda Logan, Worth Morgan, Patrice Robinson, JB Smiley, Jr., Jamita Swearengen, Jeff Warren and Chairman Frank Colvett, Jr.

**THE MEETING WAS CALLED TO ORDER  
BY SERGEANT-AT-ARMS**

**INVOCATION**

The meeting was opened with telephonic prayer by Pastor Elliot Shelton of Promise Land Church. Councilwoman Easter-Thomas thanked Pastor Shelton for being the Chaplain of the Day.

Chairman Colvett asked Councilwoman Robinson to lead the Pledge of Allegiance.

**These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.**

Approval of the Minutes of the regular meeting of March 16, 2021 and March 26<sup>th</sup>, 2021 with the following motion:

MOTION: Swearengen  
SECOND: Warren  
AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

3. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED AT 2906 OLD AUSTIN PEAY HIGHWAY; CONTAINING 0.27 ACRE IN THE COMMERCIAL MIXED USE – 3 DISTRICT. THIS RESOLUTION IS SPONSORED BY THE DIVISION OF PLANNING AND DEVELOPMENT. (HELD FROM 3/16)**

CASE NO. SUP 20-16

Held until May 4, 2021

35. **RESOLUTION AWARDED CONTRACT NO. 12218 FOR POWER SUPPLY CONSULTANT TO GDS ASSOCIATES, INC., IN THE FUNDED NOT-TO-EXCEED AMOUNT OF \$520,000.00 WITH ADDITIONAL CONDITIONS. THIS RESOLUTION IS SPONSORED BY MLGW DIVISION. (REQUEST FOR SAME NIGHT MINUTES) (HELD FROM 3/16)**

**WITHDRAWN**

1. **RESOLUTION DESIGNATING APRIL 16, 2021 AS BLUE AND GREEN DAY MID-SOUTH. THIS RESOLUTION IS SPONSORED BY COUNCILWOMAN CHEYENNE JOHNSON.**

MOTION: Johnson  
SECOND: Warren  
AYES: Canale, Carlisle, Easter-Thomas, Johnson, Jones, Logan, Morgan,  
Robinson, Smiley, Swearingen, Warren and Chairman Colvett  
Ford did not cast a vote

**APPROVED**

37. **APPOINTMENT**

**INTERIM JUDGE DIVISION 1, MUNICIPAL COURT**

**APPOINTMENT**

**CAROLYN S. WATKINS (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Carlisle  
SECOND: Robinson  
AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan,  
Robinson, Smiley, Swearingen, Warren and Chairman Colvett

**APPROVED**

2. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED AT THE SOUTHWEST CORNER OF AVERY AVENUE AND S. HOLLYWOOD STREET CONTAINING +/-7.23 ACRES IN THE RESIDENTIAL SINGLE FAMILY – 6 (R-6) AND RESIDENTIAL URBAN – 3 (RU-3) DISTRICTS. THIS RESOLUTION IS SPONSORED BY THE DIVISION OF PLANNING AND DEVELOPMENT.**

CASE NO. PD 20-18

Applicant: Christian Brothers University/Ronald Brandon – CFO  
Marty Regan/ Tim McCaskill – Representatives

Request: Additional land and accessory uses for Christian Brothers University

LUCB and DPD recommendation: APPROVAL, with conditions

MOTION: Canale

SECOND: Warren

AYES: Canale, Carlisle, Easter-Thomas, Johnson, Jones, Morgan, Robinson, Smiley,  
Warren and Chairman Colvett

NAY: Logan  
Ford and Swearengen did not cast a vote

**APPROVED**

4. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED AT 833 WEST GILLEAS RD., PARCEL ID #075031-00003, CONTAINING +/-168 ACRES IN THE RESIDENTIAL SINGLE FAMILY-6 (R-6) DISTRICT. THIS RESOLUTION IS SPONSORED BY THE DIVISION OF PLANNING AND DEVELOPMENT.**

CASE NO. SUP 21-04

Applicant: TVT 1, LLC (Tower Ventures)  
Lou Katzerman, Zoning Manager - Representative

Request: To allow a 170-foot Monopole Communications (CMCS Tower)

LUCB and DPD recommendation: APPROVAL, with conditions

MOTION: Canale

SECOND: Warren

AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Morgan,  
Smiley, Robinson, Swearengen, Warren and Chairman Colvett  
Logan abstained

**APPROVED**

5. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED AT 3695 AUSTIN PEAY HWY., PARCEL ID #086021-0003, CONTAINING +/-1.2 ACRES IN THE COMMERCIAL MIXED USE – 1 (CMU-1) DISTRICT. THIS RESOLUTION IS SPONSORED BY THE DIVISION OF PLANNING AND DEVELOPMENT.**

## CASE NO. SUP 21-05

Held until April 20, 2021

6. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED AT 657 & 659 PHILADELPHIA STREET AND 680, 687 & 688 NEW YORK STREET, CONTAINING 0.80 ACRE (+/-34,850 SQ. FT.) IN THE RESIDENTIAL URBAN (RU-3) DISTRICT (MIDTOWN DISTRICT OVERLAY). THIS RESOLUTION IS SPONSORED BY DIVISION OF PLANNING AND DEVELOPMENT.**

Case No. SUP 20-17

Applicant(s): Well Child, Inc.  
Odell Horton, Jr. – Representative

Request: Special permits to allow administrative offices and a resource center for medical services

LUCB and DPD recommendation: APPROVAL, with conditions

MOTION: Canale

SECOND: Warren

AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

7. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED AT 6659 QUINCE ROAD, CONTAINING +/-0.66 ACRE IN THE RESIDENTIAL URBAN – 2 (RU-2) DISTRICT WITH AN APPROVED VARIANCE (BOA 1992-004). THIS RESOLUTION IS SPONSORED BY DIVISION OF PLANNING AND DEVELOPMENT.**

CASE NO. PD 21-01

Applicant: Walter D. Willis III  
Robert Bingham – McCarty Granberry – Representative

Request: Commercial Planned Development for a Dollar General

LUCB and DPD recommendation: APPROVAL, with conditions

MOTION: Canale

SECOND: Warren

AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

14. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE OF BRAKEBILL COVE FOR MR. ANDREW LOVE. THIS RESOLUTION IS SPONSORED BY COUNCILWOMAN ROBINSON. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Robinson

SECOND: Warren

AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

15. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE OF SEA ISLE ROAD BETWEEN ESTATE DRIVE AND SOUTH WHITE STATION ROAD FOR THE LATE-MRS. PATRICIA MERRILL. THIS RESOLUTION IS SPONSORED BY COUNCILMAN COLVETT. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Canale

SECOND: Warren

AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

16. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE OF HAYNES STREET BETWEEN BARRON AVENUE AND PARK AVENUE FOR MR. LAVAUGHN BRIDGES. THIS RESOLUTION IS SPONSORED BY COUNCILWOMAN SWEARENGEN. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Swearengen

SECOND: Jones

AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

**FISCAL CONSENT AGENDA – Items #17 - #25 may be acted upon by one motion:**

17. **RESOLUTION TO ACCEPT, ALLOCATE, AND APPROPRIATE (\$190,000.00) IN GRANT FUNDS FROM THE COMMUNITY FOUNDATION OF GREATER MEMPHIS FOR EN01097- CHELSEA HOLLYWOOD FACILITIES AND EN01098- WATKINS-PRESLEY PROJECT. COUNCIL DISTRICTS 4,5,6,7 SUPER DISTRICT 8,9. THIS RESOLUTION IS SPONSORED BY ENGINEERING DIVISION. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**

18. **RESOLUTION TO ACCEPT REIMBURSEMENT FUNDING IN THE AMOUNT OF (\$24,747.32) FROM THE US DEPARTMENT OF HOMELAND SECURITY FOR OREGON WILDFIRES. THIS RESOLUTION IS SPONSORED BY DIVISION OF FIRE SERVICES. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**

19. **RESOLUTION TO ACCEPT REIMBURSEMENT FUNDING IN THE AMOUNT OF (\$366,733.93) FROM THE US DEPARTMENT OF HOMELAND SECURITY FOR TROPICAL CYCLONE SALLY. THIS RESOLUTION IS SPONSORED BY DIVISION OF FIRE SERVICES. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**

20. **RESOLUTION TO ACCEPT REIMBURSEMENT IN THE AMOUNT OF (\$226,211.74) FROM THE US DEPARTMENT OF HOMELAND SECURITY FOR TROPICAL CYCLONE BETA. THIS RESOLUTION IS SPONSORED BY DIVISION OF FIRE SERVICES. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**

21. **RESOLUTION TO ACCEPT REIMBURSEMENT FUNDING IN THE AMOUNT OF (\$586,183.33) FROM THE US DEPARTMENT OF HOMELAND SECURITY FOR TROPICAL CYCLONE DELTA. THIS RESOLUTION IS SPONSORED BY DIVISION OF FIRE SERVICES. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**

22. **RESOLUTION TO ACCEPT REIMBURSEMENT FUNDING IN THE AMOUNT OF (\$78,590.53) FROM THE US. DEPARTMENT OF HOMELAND SECURITY FOR TROPICAL CYCLONE ZETA. THIS RESOLUTION IS SPONSORED BY DIVISION OF FIRE SERVICES. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**

23. **RESOLUTION TO ACCEPT TWO SWIFT WATER RAPID RESPONSE ROBOTS (EMILY) VALUED AT (\$36,392.00) FROM THE SHELBY COUNTY EMERGENCY MANAGEMENT THROUGH CBRNE STATE HOMELAND SECURITY GRANT PROGRAM. THIS RESOLUTION IS SPONSORED BY DIVISION OF FIRE SERVICES. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**

24. **RESOLUTION TO ACCEPT, ALLOCATE AND APPROPRIATE GRANT FUNDS IN THE AMOUNT OF (\$10,000.00) FROM THE MEMPHIS LIBRARY FOUNDATION PROVIDED BY THE UNITED WAY OF THE MID-SOUTH FOR REIMBURSEMENT OF THE MEMPHIS**

**PUBLIC LIBRARY & INFORMATION CENTER'S LINC@11 DATABASE MANAGER'S FULL TIME SALARY AND BENEFITS. THIS RESOLUTION IS SPONSORED BY LIBRARY DIVISION. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**

25. **RESOLUTION TO ACCEPT AND APPROPRIATE AN ALLOCATION OF GRANT FUNDS IN THE AMOUNT OF (\$75,000.00 FOR THE DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT FOR THE DEVELOPMENT OF A HOUSING POLICY PLAN. THIS RESOLUTION IS SPONSORED BY HOUSING & COMMUNITY DEVELOPMENT DIVISION. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**

**ROLL CALL FISCAL CONSENT ITEMS**

MOTION: Robinson  
SECOND: Canale  
AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

**MLGW FISCAL CONSENT AGENDA – Items 17 - #27, may be acted upon by one motion:**

26. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 12265 (FORMERLY PURCHASE ORDER NO. 50107968), AUTODESK WITH DLT SOLUTIONS, LLC, IN THE FUNDED AMOUNT OF \$174,261.10. (THIS CHANGE IS TO RENEW THE CURRENT CONTRACT FOR SOFTWARE LICENSES, MAINTENANCE, AND SUPPORT SERVICES FOR A THREE-YEAR TERM FOR THE PERIOD COVERING APRIL 27, 2021 THROUGH APRIL 26, 2024.)**

**APPROVED**

27. **RESOLUTION APPROVING THE PAYMENT OF \$175,000 AND EXECUTING THE AGREEMENT OF THE ON-GOING COMMITMENT TO LOCAL ECONOMIC AND COMMUNITY DEVELOPMENT AND RESEARCH WITH THE GREATER MEMPHIS CHAMBER. (THIS AGREEMENT WILL BE FOR SERVICES TO BE RENDERED BY THE GREATER MEMPHIS CHAMBER FOR THE PERIOD SEPTEMBER 1, 2020 THROUGH AUGUST 31, 2021.)**

**APPROVED**

28. **RESOLUTION APPROVING THE PAYMENT OF AN INVOICE FROM AMERICAN PUBLIC POWER ASSOCIATION FOR THE 2021 ANNUAL MEMBERSHIP DUES, IN THE AMOUNT OF \$135,862.08.**

**APPROVED**

29. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 12035, ENVIRONMENTAL CONSULTING AND REMEDIATION SERVICES WITH BH&M ENVIRONMENTAL CONSULTANTS, INCORPORATED, IN THE FUNDED NOT-TO-EXCEED AMOUNT OF \$5,500,000.00. (THIS CHANGE IS TO RATIFY AND RENEW THE CURRENT CONTRACT FOR THE SECOND OF FOUR ANNUAL RENEWAL TERMS FOR THE PERIOD COVERING APRIL 8, 2021 THROUGH APRIL 7, 2022, WITH NO INCREASE IN RATES FROM THE PREVIOUS TERM.)**

**APPROVED**

30. **RESOLUTION APPROVING PAYMENT OF AN INVOICE TO TENNESSEE VALLEY PUBLIC POWER ASSOCIATION FOR THE 2021 ANNUAL MEMBERSHIP DUES, IN THE AMOUNT OF \$52,211.43.**

**APPROVED**

31. **RESOLUTION AWARDED CONTRACT NO.12204, MLGW DISTRIBUTION AUTOMATION (DA) STRATEGIC TO BURNS & MCDONNELL, IN THE FUNDED NOT-TO-EXCEED AMOUNT OF \$700,000.00. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**

32. **RESOLUTION AWARDED A PURCHASE ORDER TO EXPERITEC, INC., FOR GAS REGULATORS, IN THE FUNDED AMOUNT OF \$231,851.18.**

**APPROVED****ROLL CALL MLGW FISCAL CONSENT ITEMS**

MOTION: Robinson  
SECOND: Carlisle  
AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan,  
Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

38. **RESOLUTION AWARDED CONTRACT NO. 12218 FOR POWER SUPPLY CONSULTANT TO GDS ASSOCIATES, INC., IN THE FUNDED NOT-TO-EXCEED AMOUNT OF \$520,000.00 WITH ADDITIONAL CONDITIONS APPROVED BY MLGW BOARD OF COMMISSIONERS ON MARCH 31, 2021. ALL COUNCIL DISTRICTS. THIS RESOLUTION IS SPONSORED BY THE ADMINISTRATION. (REQUEST FOR SAME NIGHT MINUTES)**



(Vice Chairwoman Swearengen read a comment card for the following person:  
Dennis Lynch, 347 N. McLean, Memphis, Tennessee, 38112

MOTION: Robinson  
SECOND: Warren  
AYES: Canale, Carlisle, Easter-Thomas, Ford, Jones, Logan, Morgan,  
Robinson, Smiley, Swearengen, Warren and Chairman Colvett  
Johnson abstained

**APPROVED**

39. **RESOLUTION TO RECEIVE AND APPROPRIATE A CARES ACT FUNDING ALLOCATION FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT IN THE AMOUNT OF \$11,293,638.00 TO THE FY2021 HOUSING AND COMMUNITY DEVELOPMENT'S FEDERAL BUDGET. THIS RESOLUTION IS SPONSORED BY HOUSING AND COMMUNITY DEVELOPMENT. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Johnson  
SECOND: Warren  
AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan,  
Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

40. **RESOLUTION REQUESTING THE ADMINISTRATION TO TERMINATE AND REBID THE WASTE PRO CONTRACT. ALL COUNCIL DISTRICTS. THIS RESOLUTION IS SPONSORED BY COUNCILMEMBERS CANALE, CARLISLE, COLVETT, JOHNSON, LOGAN, ROBINSON AND WARREN. (REQUEST FOR SAME NIGHT MINUTES)**

(Vice Chairwoman Swearengen read a comment card for the following person:  
James Sdoia, 8679 Stablemill Lane, Cordova, Tennessee, 38016

MOTION: Warren  
SECOND: Swearengen  
AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan,  
Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

41. **RESOLUTION REQUESTING APPROVAL FOR THE SALE OF A CITY OWNED PROPERTY KNOWN AS 0 OAKVIEW, PARCEL ID# 031031-00011 MEMPHIS, TENNESSEE, 38114, FOR THE USE AND BENEFIT OF THE CITY OF MEMPHIS DIVISION OF HCD. THIS RESOLUTION IS SPONSORED BY GENERAL SERVICES DIVISION. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Smiley  
 SECOND: Warren  
 AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan,  
 Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

42. **RESOLUTION TRANSFERRING AN ALLOCATION OF \$178,560.00 FROM FS02011, REPLACE FIRE STATION 43 TO FS02029, FS5/HQ CONSTRUCTION AND APPROPRIATING. THIS RESOLUTION IS SPONSORED BY FIRE SERVICES. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Warren  
 SECOND: Canale  
 AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan,  
 Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

**CONSENT AGENDA – Items #8 - #13 may be acted upon by one motion: See Page 5980 for Roll Call Consent Item.**

8. **ORDINANCE PROTECTING PUBLIC HEALTH AND THE ENVIRONMENT, PRESERVE THE MEMPHIS SAND AQUIFER, AND PROMOTE ENVIRONMENTAL JUSTICE, UP FOR S E C O N D READING. ORDINANCE NO. 5782 IS SPONSORED BY COUNCILMAN WARREN AND COUNCILMAN FORD.**

**APPROVED**, on Second reading

9. **ORDINANCE REZONING THE NORTHWEST CORNER OF FRAYSER BOULEVARD AND ARDMORE STREET; CONTAINING 0.7 ACRES IN THE RESIDENTIAL – 6 AND RESIDENTIAL – 10 DISTRICTS UP FOR S E C O N D READING. THIS ORDINANCE IS SPONSORED BY THE DIVISION OF PLANNING AND DEVELOPMENT.**

CASE NO. Z 21-04  
 ORDINANCE NO. 5780

**APPROVED**, on Second reading

10. **ORDINANCE REZONING THE SOUTHSIDE OF E. HOLMES ROAD; +/-1,534.97 FEET WEST OF PLEASANT HILL ROAD; CONTAINING 4.05 ACRES IN THE CONSERVATION AGRICULTURE (CA) DISTRICT UP FOR S E C O N D READING. THIS ORDINANCE IS SPONSORED BY THE DIVISION OF PLANNING AND DEVELOPMENT.**

CASE NO. Z 21-01  
 ORDINANCE NO. 5781

**APPROVED**, on Second reading

11. **NOTATION FROM THE LAND USE CONTROL BOARD THAT THE FOLLOWING CASE WAS HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

A. **CASE DESCRIPTION: RESOLUTION ADOPTING CERTAIN AMENDMENTS TO THE MEMPHIS 3.0 COMPREHENSIVE PLAN**

Applicant: Memphis and Shelby County Division of Planning & Development

Request: Approve the resolution adopting certain amendments to the Memphis 3.0 Comprehensive Plan

LUCB and DPD recommendation: APPROVAL

Set a date of Public Hearing for April 20, 2021

12. **RESOLUTION APPROVING THE FINAL PLAT OF 9 EAST PLANNED DEVELOPMENT SUBDIVISION.**

CASE NO. PD 19-06  
CONTRACT NO. CR-5365

Resolution approves the final plat located at 320 East Street in the City of Memphis. Cost of improvements to be borne by the Developer. Resolution also authorizes to accept the Bank Tennessee Cashier's Check No. 100800543 in the amount of \$38,800.00 in lieu of bond.

**APPROVED**

13. **RESOLUTION APPROVING THE ENGINEERING PLANS FOR WOODLAND HILLS II PD, PHASE 12, PART OF AREAS 4, 5 & 6 (COUNTY).**

CONTRACT NO. CR-5366

Resolution approves the engineering plans located approximately 800 linear feet west of the Woodland Trace Lane and Trinity Road intersection. Resolution also accepts the Financial Federal Letter of Credit No. 229A, in the amount of \$125,000.00 in lieu of bond.

**APPROVED**

**ROLL CALL CONSENT ITEM**

MOTION: Warren  
SECOND: Canale  
AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan,  
Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED****33. APPOINTMENTS****MEMPHIS ALCOHOL COMMISSION****REAPPOINTMENT**

RENEE POE

**MEMPHIS ANIMAL SHELTER ADVISORY BOARD****APPOINTMENTS**

LONDON SHAVERS  
DAMON WILLIAMS

MOTION: Carlisle  
SECOND: Warren  
AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan,  
Robinson,  
Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED****34. RESOLUTION APPROVING THE SALE OF A CITY OWNED PARCEL KNOWN AS 0 ORR STREET, MEMPHIS, TN. 38108, PARCEL ID# 043038-00013. THIS RESOLUTION IS SPONSORED BY GENERAL SERVICES DIVISION.**

MOTION: Smiley  
SECOND: Warren  
AYES: Canale, Carlisle, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan,  
Robinson,  
Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED****36. RESOLUTION TRANSFERRING AN ALLOCATION IN THE AMOUNT OF \$6,217,095.00 FROM CONTRACT CONSTRUCTION TO ARCHITECTURE &**

**ENGINEERING IN DESIGN – ST COVERLINE, PROJECT NUMBER ST02001. THIS PROJECT INCLUDES ALL COUNCIL DISTRICTS AND ALL COUNCIL SUPER DISTRICTS. THIS RESOLUTION IS SPONSORED BY PUBLIC WORKS DIVISION.**

MOTION: Smiley  
SECOND: Warren  
AYES: Canale, Carlisle, Ford, Johnson, Jones, Logan, Morgan, Robinson, Smiley, Swearengen, Warren and Chairman Colvett

**APPROVED**

**(Special Item #1 - Vice Chairwoman Swearengen made a motion to approve same night minutes for Items #14 - #25, Item #31, and Items #37- #42 from tonight's meeting.)**

MOTION: Swearengen  
SECOND: Warren  
AYES: Canale, Carlisle, Easter-Thomas, Ford, Jones, Logan, Morgan, Robinson, Smiley, Swearengen, Warren and Chairman Colvett  
Johnson abstained

**APPROVED**

(Vice Chairwoman Swearengen read comment cards for the following people:  
Joe Kent, 5111 Flamingo, Memphis, Tennessee, 38117  
Lisa Harris, 605 South McLean Blvd, Memphis, Tennessee, 38104

**(Councilman Canale made a motion to recess the April 6, 2021 meeting until April 20, 2021; this was seconded by Councilman Carlisle.)**

**RECESSED MEETING AT 6:06 p.m.**

.....  
Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

\_\_\_\_\_  
CHAIRMAN

Attest:

\_\_\_\_\_  
Deputy Comptroller/Council Records

**CITY OF MEMPHIS  
NOTICE OF REGULAR MEETING  
OF  
THE MEMPHIS CITY COUNCIL  
Tuesday, April 6, 2021, 3:30 p.m.**

Due to the declarations of a State of Emergency by the President of the United States, the Governor of Tennessee and the Mayor of Memphis relating to Covid-19 Epidemic the Council has determined that is necessary that the meeting be conducted by electronic or other means of communication in order to protect the health, safety and welfare of the public, City employees, Council staff and Members of the Council.

**THERE WILL BE NO PHYSICAL MEETING**

Attached to this Notice of Meeting are instructions on how members of the public may electronically access the meeting and/or a recording of the meeting and how the public may provide written comments concerning any agenda item or any other matter prior to the meeting.

**INSTRUCTIONS OF STEPS TO VIEW THE APRIL 6, 2021 MEMPHIS CITY COUNCIL MEETING**

Take notice, the Memphis City Council will meet on **Tuesday, April 6 2021 at 8:00 a.m.** However, due to Coronavirus disease (COVID-19) health and safety concerns, the public is not permitted to attend the meeting in-person. Instead, the public is permitted to participate in the meeting in the following manner: (I) Electronically, via live-stream, (II) Radio, via 88.5 FM (WQOX), and (III) Electronically, via digital archive.

**A. Electronically, via live-stream**

**To view the Tuesday, April 6, 2021 Memphis City Council meeting electronically, via live-stream, follow the steps below:**

- (1) Access the internet,
- (2) Go to the Memphis City Council's "Watch Meetings Online" page at <https://www.memphistn.gov/cms/One.aspx?portalID=11150816&pageID=15334953>
- (3) At 8:00 a.m., click on the April 6, 2021 Memphis City Council meeting
- (4) Begin viewing the April 6, 2021 Memphis City Council meeting electronically via live-stream
- (5) Click on the April 6, 2021 "Agenda" tab to view the agenda documents

**B. Radio, via 88.5 FM (WQOX)**

**To listen to the Tuesday, April 6, 2021 Memphis City Council meeting by radio, via 88.5 FM (WQOX), follow the steps below:**

- (1) Access a radio with FM-capabilities,
- (2) At 3:30 p.m., turn the radio dial to 88.5 FM (WQOX),
- (3) Begin listening to the April 6, 2021 Memphis City Council meeting by radio via 88.5 FM (WQOX)

**C. Electronically, via digital archive**

**To listen to the Tuesday, April 6, 2021 Memphis City Council meeting electronically, via digital archive, follow the steps below:**

- (1) Access the internet **after** the April 6, 2021 Memphis City Council meeting,
- (2) Go to the Memphis City Council's "Archived Videos" page at [https://www.memphistn.gov/government/city\\_council/watch\\_public\\_meetings\\_online/city\\_council\\_archived\\_videos](https://www.memphistn.gov/government/city_council/watch_public_meetings_online/city_council_archived_videos)
- (3) Press play on the April 6, 2021 "City Council Full Meeting" tab
- (4) Begin viewing the April 6, 2021 Memphis City Council meeting electronically via digital archive
- (5) Click on the April 6, 2021 "Agenda" tab to view the agenda documents
- (6) Click on the April 6, 2021 "Minutes" tab to view the meeting minutes

**Note:** Public comments may be submitted to the Memphis City Council. To submit your public comment, **click here**. For more information, call (901) 636-6786.

Thank you for your patience during this time. We look forward to continuing our work on your behalf as a thirteen-member council working to make Memphis a safe, healthy, and prosperous city for all.

With earnest appreciation,



Frank Colvett, Jr.  
Chairman, Memphis City Council